

In the Matter of:)
)
Business Meeting)
_____)

Commissioners Present

Robert B. Weisenmiller, Chair
Karen Douglas
Carla J. Peterman

Staff Present:

Melissa Jones, Executive Director
Michael Levy Chief Counsel
Jennifer Jennings, Public Advisor
Harriet Kallemeyn, Secretariat

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Akasha Kaur Khalsa	2
Brian Neff	4
Aleecia Macias	5
Matt Coldwell	6
Sarah Pittiglio	7,8
Jamie Patterson	10
Jonah Margolis	11
Joanne Vinton	12
Peter Ward	13
Christine Stora	14
Kevin Bell	14, 15
Kourtney Vaccaro	15
Kenneth Celli	16
Kerry Willis	16

Also Present (*on phone)

Interested Parties

	<u>Item #</u>
Andrew Panson, CA EPA: ARB	5
Chris Keithley, CalFire	8
Richard Bode, CA EPA: ARB	8
*Byron Washon, UCSD	10
Vincent Visco, Quallion LLC	11
Sarah McQuaid, Solazyme, Inc.	12
Sean Edgar, Clean Fleets Coalition and Autocar, LLC	13
Greggory Wheatland, Ellison Schneider & Harris, LLP	14, 16
Barbara McBride, Calpine	14
Robert Sarvey	14-16
Scott Galati, Galati & Blek	15
Greg Lamberg, Radback Energy	15
Chris Curry, Mariposa Energy, LLC	16
Andy Wilson, Ca Pilots Assoc.	16

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Morgan Groover, Mountain House Community Services District	16
Edward Mainland, Sierra Club, CA	16
Rajesh Dighe, Intervener	16
April Rose Sommer, Attorney at Law, Representing Rob Simpson	16

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Eve Diamond, Oakley Citizens for Responsible Growth	15
Dorothy Rothrock, California Manufacturers Assoc.	15
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b. UNIVERSITY OF CALIFORNIA, DAVIS. Possible approval of Amendment 1 to agreement PIR-08-007 with the Regents of the University of California, Davis, to reallocate funds within the agreement and add three additional case studies of cities that are exploring local policy initiatives to reduce greenhouse gas emissions in order to highlight achievements and barriers. The proposed amendment will not change the contract term or overall budget amount.		
c. CSU FULLERTON AUXILIARY SERVICES CORPORATION. Possible approval of Amendment 1 to Contract 500-09-007 with California State University Fullerton Auxiliary Services Corporation for a six-month, no-cost time extension to allow additional measurements of fugitive methane emissions at natural gas facilities in California.		
d. CITY OF ORLAND. Possible approval of Amendment 1 to Agreement CBG 09 049 with the City of Orland to reallocate \$3,802 from the Labor budget to Non-Labor Contract Expenses category.		
e. COUNTY OF NEVADA. Possible approval of Amendment 1 to loan agreement 006-09-ECD with the County of Nevada to change the scope of work, and reduce the loan amount by \$94,641. Installation of larger HVAC units than originally proposed results in lower annual energy cost savings. The new maximum amount of the loan is \$1,392,226.		

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1. CONSENT CALENDAR (Continued).
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 - g. EV CONNECT, LLC. Possible approval of Amendment to approval of Grant Award ARV-10-006 with EV Connect, LLC and to Resolution 10-1006-14, substituting EV Connect, Inc., as the Grant Recipient and novating the Agreement to EV Connect, Inc., for a project to install, upgrade, and expand public plug-in chargers at five end-of-the-line transit facilities in the Los Angeles County Metropolitan Transit Authority service area.
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3. THE RESULTS GROUP. Possible approval of Contract **Postponed**
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13. VEHICLE BUY-DOWN INCENTIVE RESERVATIONS (Continued):

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 - e. HANSEL FORD, INC., in the amount of \$64,000 for the buy-down of 8 natural gas vehicles (8,501 to 14,000 pounds gross vehicle weight).
 - f. SERRAMONTE FORD, in the amount of \$120,000 for the buy-down of 15 natural gas vehicles (8,501 to 14,000 pounds gross vehicle weight).
 - g. AUTOCAR, LLC, in the amount of \$1,280,000 for the buy-down of 40 natural gas vehicles (26,001 pounds gross vehicle weight and greater).
 - h. KENWORTH TRUCK COMPANY, in the amount of \$1,280,000 for the buy-down of 40 natural gas vehicles (26,001 pounds gross vehicle weight and greater).
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P R O C E E D I N G S

MAY 18, 2011 10:05 a.m.

CHAIRMAN WEISENMILLER: Good morning. Let's start today's Business Meeting with the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was received in unison.)

CHAIRMAN WEISENMILLER: Good morning. We're going to hold Items 3 and 9 to the next business meeting. And the other action has been delayed for those of you who came today to welcome Commissioner Everett back. He has not been sworn in. Hopefully at the next business meeting you'll all have the opportunity to have Commissioner Everett back and his energy and enthusiasm and bicycle knowledge as part of our family. With that let's go on to Item 1.

CHAIRMAN DOUGLAS: Move the consent calendar.

COMMISSIONER PETERMAN: I second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes) This has been passed unanimously.

Let's go to Item 2. City of Calimesa. Possible approval of Agreement 009-10-ECE-ARRA for a \$65,292 loan to the City of Calimesa to replace six HVAC heat pump units, one unit is for the City Hall

1 Annex and the remaining five units are for the Senior
2 Center in Riverside County Designated "Cool Center."
3 This is ARRA-funded and the contact is Akasha, thanks.
4 MS. KHALSA: Hello. My name is Akasha Kaur
5 Khalsa. I'm with the Special Projects Office with the
6 Fuels and Transportation Division. This is a request
7 for a loan for the City of Calimesa for \$65,292. It's
8 an American Recovery and Reinvestment Act three
9 percent energy conservation assistance account program
10 loan for replacing of six HVAC heat pump units. Heat
11 pumps are much more efficient than ordinary central
12 air conditioners. As we said, they're for two
13 different buildings on City Hall campus. The
14 Riverside County does have extremely hot weather in
15 the summer so they have designated this Senior Center
16 as a Cool Center and in the winter as a Heat Center
17 for weather extremes. The total project, the
18 installation is projected to cost \$68,000 which the
19 majority of which will come from this loan. The rest
20 comes from the Block Grant, also from ARRA funds.
21 This will reduce the city's annual electrical energy
22 use by an estimated 43,000 kilowatt hours. This
23 upgrade will save the city approximately \$8,000
24 annually. The carbon-dioxide equivalent reduction is
25 estimated at 15.2 tons per year. The simple payback

1 is 8.2 years based on the loan amount.

2 CHAIRMAN WEISENMILLER: Commissioners, any
3 questions or comments?

4 CHAIRMAN DOUGLAS: Just a comment that this
5 looks like an excellent project. So I'll move this
6 item.

7 COMMISSIONER PETERMAN: I'll second.

8 CHAIRMAN WEISENMILLER: All in favor?

9 (Ayes.) This has passed unanimously. Thank
10 you.

11 Item 4. University of California -
12 Berkeley. Possible approval of agreement FED 10-001
13 for a grant of \$122,000 with the regents of the
14 University of California, Berkeley to conduct directed
15 outreach, field performance and implementation
16 assessment activities related to further deployment of
17 combined heat and power in California. This is DOE
18 funding. The contact is Bryan.

19 COMMISSIONER PETERMAN: Chair, before we
20 hear this Item I need to disclose that I have a
21 nonfinancial relationship with the University of
22 California in Berkeley. I'm currently finishing my
23 PhD there. Thanks.

24 MR. NEFF: Thank you Chairman and fellow
25 Commissioners. Good morning. I'm Bryan Neff and I

1 work in the Electricity Analysis Office. I'm here to
2 present this proposed grant and it's with the Regents
3 of the University of California, not with UC Berkeley.
4 So to make that distinction. This \$122,000 grant is
5 from the Department of Energy and will fund the
6 Pacific Region Combined Heat and Power Regional
7 Application Center, also known as the PRAC, one of
8 eight regional centers throughout the United States.

9 The PRAC was originally established by the
10 Department of Energy and the Energy Commission in 2005
11 to encourage the development of environmentally sound
12 combined heat and power resources and distributed
13 generation projects throughout region indication.

14 The PRAC is a key resource in promoting and
15 working towards California clean energy goals
16 including the Governor's target of 6,500 megawatts of
17 new CHP over the next 20 years.

18 Education institutions involved with the
19 PRAC are UC Berkeley, UC Irvine, California State
20 University San Diego and California State University
21 San Francisco.

22 I request your approval of this grant and I
23 am available to answer any questions.

24 CHAIRMAN WEISENMILLER: Thank you.
25 Commissioners, any questions or comments?

1 CHAIRMAN DOUGLAS: Move on Item 4.

2 COMMISSIONER PETERMAN: I second.

3 CHAIRMAN WEISENMILLER: All in favor?

4 (Ayes.) Thank. This has passed

5 unanimously.

6 Item 5. California Resources Board.

7 Possible approval of contract 600-10-010 for an

8 interagency agreement with the California Air

9 Resources Board for a \$4 million to provide funding

10 for the Hybrid Truck and Bust Voucher Incentive

11 Program Project for qualified battery-electric

12 vehicles and this is ARFVT funding. Contact is

13 Aleecia. Thanks.

14 MS. MACIAS: Good morning Commissioners. My

15 name is Aleecia Macias. I'm with the Emerging Fuels

16 and Technologies Office. I'm requesting your approval

17 today for a \$4 million dollar interagency agreement

18 with the Air Resources Board for the Hybrid Truck and

19 Bus Voucher Incentive Program otherwise known as

20 HTBVIP.

21 The purpose of this funding is to provide

22 additional incentives to fleets with zero emissions,

23 all electric medium and heavy duty vehicles once those

24 qualify under HTBVIP. The funding also includes a 20

25 percent additional incentive for those vehicles

1 manufactured in California. The funding is expected
2 to cover incentives for approximately 145 to 200
3 vehicles. The Energy Commission funding does not
4 cover the full incremental costs, there's still
5 incremental costs in addition to the Air Resources
6 Board and Energy Commission Incentive. These
7 incentives are critical in influencing fleets to
8 choose all-electric applications over hybrid
9 applications. The current program, HTBVIP program,
10 provides the same incentive level for those both
11 hybrid applications and all electric applications.

12 There are approximately 65 vehicles in the
13 HTBVIP queue that would qualify for this incentive.
14 We're expecting that the funding will go fairly
15 quickly based on the industry input.

16 We have today to present Andy Panson from
17 the Air Resources Board and I'd be happy to answer any
18 of your questions.

19 CHAIRMAN WEISENMILLER: Thank you, Aleecia.

20 MR. PANSON: Hi. Thanks. I'm Andy Panson
21 as Aleecia said. I'm ARB's lead staff on the AB118
22 Incentive Programs and I'm here to testify in support
23 of the interagency agreement. We're really excited.
24 This will help bring more electric trucks to
25 California. I was last before the Commission in

1 February when you approved funding for light-duty all
2 electric passenger cars through ARB's Clean Vehicle
3 Rebate Project and I'm really happy to be back here
4 again as you consider an additional investment to
5 bring zero emission vehicles to California.

6 I thank Aleecia and the rest of the staff
7 for their hard effort and hard work in putting this
8 together. And I thank the Commissioners for their
9 leadership on AB118. Before concluding, I also want
10 to acknowledge your complimentary investments in
11 electric vehicle charging infrastructure. That's a
12 critical part of all of this and the deployment
13 efforts don't really work without the complimentary
14 infrastructure support so we thank you for your past
15 and future investments in that area. Just to
16 conclude, ARB supports the agreement and we're very
17 excited to administer this money for you.

18 CHAIRMAN WEISENMILLER: Thank you.
19 Commissioners?

20 CHAIRMAN DOUGLAS: Thank you. Just a brief
21 comment. Thanks for being here, Andy. It's good
22 seeing you again. I do remember the last time that
23 you were here with the other agreement. I had the
24 pleasure of serving on the Transportation Committee
25 for two years so I'm reasonably familiar with these

1 issues as they've developed. It's really good to see
2 us moving forward with deployment of hybrid vehicles
3 in the truck and bus space because this is where we
4 get pretty significant savings in terms of criteria
5 pollutants as well as greenhouse gases, so it's good
6 to see.

7 COMMISSIONER PETERMAN: I'd like to add that
8 as a relatively new member of the Transportation
9 Committee, happy to see this project as well as happy
10 to see us working well with another sister agency.
11 Particularly this focus on buses I find especially
12 interesting as we need to think about additional ways
13 to support those within cities who don't have vehicles
14 and allow them to have access to clean transportation.
15 I'm happy to move this Item.

16 CHAIRMAN DOUGLAS: Second.

17 CHAIRMAN WEISENMILLER: All in favor?

18 (Ayes.) This Item passed unanimously.

19 Thank you.

20 MS. MACIAS: Thank you.

21 Item 6 Regents—

22 MR. LEVY: Chair Weisenmiller, before—while
23 they're coming forward on Item 6, may I take a moment
24 for personal privilege?

25 CHAIRMAN WEISENMILLER: Sure.

1 MR. LEVY: I'd like to introduce the team of
2 law students to you from my own Alma Mater the
3 University of San Diego. Would you folks please come
4 forward? Commissioners, the Energy Policy Initiatives
5 Center, EPIC, is a non-profit academic and research
6 center at the University of San Diego School of Law.
7 It studies energy policy issues effecting the San
8 Diego region and California. EPIC integrates research
9 and analysis, law school study and public education
10 and serves as a source of legal and policy expertise
11 and information in the development of sustainable
12 solutions that meet our future energy needs. EPIC
13 currently offers a Law School course on Energy Law and
14 Policy and is in the process of conducting legal and
15 policy research into the following areas: Renewable
16 Energy Credits, Distributed Generation, Solar Laws,
17 Advanced Electricity Grid Technology and Public
18 Interest Program Funding. In addition, EPIC monitors
19 regulatory and legislative activity related to energy
20 policy issues affecting the San Diego region and
21 California. The students here today have spent the
22 last five months conducting legal research into
23 several complex jurisdictional issues raised in
24 litigation over the Energy Commission's power plant
25 licenses. This team includes Professor Mike Reed,

1 Derek Onysko—excuse me if I mess up your name,
2 Brittany Krupica, Danny Goodrich, Noah Buxton, Doug
3 Hale and the Program Director Scott Anders. I'd like
4 to introduce them to you. They're here today to
5 present a lot of their findings to the Office of Chief
6 Counsel about their research over the last five
7 months. They're witnessing your business meeting and
8 also taking a tour of the facilities.

9 CHAIRMAN WEISENMILLER: That's very good.
10 We'd like to thank everyone for their efforts. It's
11 good, certainly, to see Scott Anders again. I had the
12 opportunity to work with Scott for awhile and actually
13 with other members of his faculty. Certainly
14 appreciate your help in this area.

15 MR. LEVY: Thank you very much. Thank you
16 for your support.

17 COMMISSIONER PETERMAN: I'd just like to add
18 also that it's an exciting time to be in state
19 government and so when you finish your law degrees,
20 consider working at an agency like the Energy
21 Commission or one of our other esteemed sister
22 agencies. Thanks.

23 CHAIRMAN DOUGLAS: Yeah. I can't emphasize
24 enough—that strongly enough. You have a real
25 opportunity working in the State of California in

1 energy to make a big different in the world. We're
2 glad to see you already doing that. We hope you'll
3 continue on this path.

4 MR. LEVY: Thank you.

5 COMMISSIONER PETERMAN: So before we hear
6 Item 6, I once again must disclose that I have a
7 nonfinancial relationship with the University of
8 California, Berkeley albeit not the Regents because
9 I'm finishing my Doctoral Studies there.

10 CHAIRMAN WEISENMILLER: Okay. So Item 6.
11 The University of California. Possible approval of
12 contract 500-10-044 for \$478,457 with the Regents of
13 the University of California to develop innovative
14 technologies and approaches to inspect and monitor the
15 integrity of natural gas pipelines. This is PIER
16 natural gas funding. Matt, do you want to go forward?

17 MR. COLDWELL: Good morning, Commissioners.
18 My name is Matt Coldwell. I'm Energy Commission
19 staff. I'm here to request approval of a contract
20 with the Regents of the University of California.
21 It's an 18 month contract for \$478,457. The purpose
22 of this project will be to prototype the pilot test,
23 what are called electromechanical system platforms or
24 MIMS for short. These have the potential to improve
25 the monitoring of the integrity of California's

1 natural gas pipeline system infrastructure. Three
2 separate MIMS prototypes will be developed. One will
3 be a device that will monitor the pressure in a
4 natural gas pipeline and through wireless
5 communications, it can guard against over pressuring.
6 The second device is going to be a laser-based system
7 for inspecting seam welds. The third is a device that
8 is a communicating micro-sensor that will detect
9 corrosion in the pipeline.

10 Additionally, a database, a three-
11 dimensional GIS system will be developed to support
12 these conditioned based monitoring technologies.

13 The end product of the work will be the
14 designed platforms of three new sensors and also the
15 database. This project has a companion project that
16 will be in front of the Commissioners at the next
17 business meeting. We'll be doing a current state
18 assessment of how California is currently monitoring
19 and assessing the integrity of the pipeline system.
20 And an advisory board for both projects will be
21 created to oversee it and we hope to get utility
22 participation.

23 I'm happy to answer any questions.

24 CHAIRMAN WEISENMILLER: Commissioners, any
25 questions or comments?

1 COMMISSIONER PETERMAN: I think the Chair
2 will comment just on the important of this work so
3 I'll defer to him.

4 CHAIRMAN WEISENMILLER: I was going to say
5 that I think after San Bruno happened it was pretty
6 clear to all of us Commissioners was one of the things
7 that we needed to do was look through our programs,
8 try to understand what the instant meant and how we
9 could help respond. Obviously, some of the most
10 fundamental things regulations deals with are health
11 and safety and sort of system reliability, we've spent
12 a lot of time on sustainability but basically we have
13 to make sure that safety is dealt with and so we
14 really want to talk to the then R&D committee which
15 was Commissioner Boyd and Commissioner Byron and they
16 agreed with me that it was a good time to go back and
17 reevaluate PIER funding, look for opportunities to
18 help on San Bruno and work with the PUC for that sort
19 of shift. So again, it's a very important project and
20 I appreciate the staff's timely response.

21 COMMISSIONER PETERMAN: With that, I'll move
22 the item.

23 CHAIRMAN DOUGLAS: Second.

24 CHAIRMAN WEISENMILLER: All in favor?

25 (Ayes.) This passed unanimously. Thank

1 you.

2 Item 7. Possible approval for—University of
3 California Santa Barbara. Possible approval of
4 contract 500-10-045 for \$600,000 with the Regents of
5 the University of California, Santa Barbara to
6 estimate the effects of climate change on the fire
7 frequency and vegetation in California. The
8 watersheds and alternate vegetation can substantially
9 modify hydroelectric conditions and could have
10 significant impact on hydropower generation. This is
11 PIER electricity funding. Sarah?

12 MS. PITTIGLIO: Good morning, Commissioners.
13 My name is Sarah Pittiglio. I'm with the
14 Environmental Group in PIER. I want to start off by
15 noting that we should strike the Regents of University
16 of California from the text in the agenda because this
17 agreement is with the UC campus of Santa Barbara and
18 not the UC Regents.

19 Hydropower supplies about 15 percent of
20 California's energy and the demand for this energy
21 will be increasing in the future. Since the water
22 that drives these facilities flows from forests, it's
23 important for us to know how disturbances to forests
24 effect the hydrologic cycle. We know that fire and
25 the influx of invasive species alter natural fire

1 regimes but we don't have field data to quantify
2 changes in infiltration, runoff and ground water
3 recharge. The results from this study will provide
4 important information for water managers to improve
5 their ability to predict the effect of land coverage
6 change and climate change on the availability of water
7 for hydropower operations.

8 An additional benefit of the results from
9 this project will be the identification of problematic
10 watersheds that should priority sites for forest
11 thinning to reduce fire danger. Results from this
12 project could also help with the identification of
13 locations for regional biomass plants or the need for
14 cogeneration plants that provide a place to sell
15 woodchips from forest waste.

16 If you have any questions, I'd be happy to
17 answer them.

18 CHAIRMAN WEISENMILLER: Commissioners, any
19 questions or comments?

20 COMMISSIONER PETERMAN: No questions. I
21 move this Item.

22 CHAIRMAN DOUGLAS: Second.

23 CHAIRMAN WEISENMILLER: All in favor?

24 (Ayes.) Approved unanimously.

25 Item 8.

1 COMMISSIONER PETERMAN: Chair, before we
2 hear Item 8, I need to disclose that I have a
3 nonfinancial interest with the University of
4 California, Berkeley where I'm still finishing my PhD.

5 CHAIRMAN WEISENMILLER: University of
6 California - Berkeley. Possible approval of contract
7 500-10-046 for \$400,000 with the Regents of the
8 University of California, Berkeley to determine the
9 effect of forest disturbances such as the Bark beetle
10 infestations on carbon stocks and the potential for
11 forest and lands to provide carbon offsets for
12 California's energy sector. This is PIER Electricity
13 Funding. Sarah?

14 MS. PITTIGLIO: Thank you. Again, I'd like
15 to strike the language that says the Regents of the
16 University of California. This agreement is with UC
17 Berkeley and not with the Regents.

18 There are currently no estimates of
19 greenhouse gas emissions from disturbances other than
20 wildfire for California forests. However, emissions
21 from insect outbreaks and disease have the potential
22 to cause landscape scale tree mortality. Projected
23 changes in climate may make insect outbreaks and
24 disease more common, potentially changing California's
25 forests from a carbon sink to a carbon source.

1 Utilities are currently looking for carbon offsets in
2 the forest sector but need updated information on
3 uncertainties for these projects. It is also
4 necessary to predict the capacity of California's
5 forest to store and sequester carbon, provide offsets
6 for utilities in order to keep energy prices low for
7 consumers in future cap and trade markets.

8 This project is part of a coordinated effort
9 between California Air Resources Board and CAL FIRE
10 and the Energy Commission. Our unified goal is to
11 create a statewide geo-referenced land use, land
12 covered database, to represent conversions between
13 land categories over time using remotely sensitive
14 data to have an in-house method for developing the
15 greenhouse gas inventory.

16 The Air Resources Board will be focusing on
17 identifying methods to develop this greenhouse gas
18 inventory method in-house and be looking at emissions
19 from wildfires. The role of CAL FIRE will be to
20 provide a semblance of annual CO2 uptake in greenhouse
21 gas emissions from urban forests.

22 Through this contract the Energy Commission
23 will be providing essential data on the specific
24 effects of catastrophic tree mortality on greenhouse
25 gas emissions from the forestry sector.

1 Together, this data will be used to develop
2 an approved method to determine potential carbon
3 offsets for the energy sector by providing essential
4 carbon offsets available in the forest sector.

5 Today, representatives from the Air
6 Resources Board and CAL FIRE have come to speak on
7 their behalf of their role in this coordinated
8 research effort. So, if they'd like to come forward.

9 CHAIRMAN WEISENMILLER: Please step forward.

10 MR. KEITHLEY: Hi. I'm Chris Keithley from
11 CAL FIRE. As Sarah stated this is a joint effort
12 between PIER and ARB and CAL FIRE. We have been
13 working as a group for a couple of years now to try to
14 improve inventory methods of greenhouse gases. I
15 would like also to mention that we have a State Forest
16 Assessment Report where we do collect information on
17 pest and insect outbreaks and this is a great addition
18 to that by helping us quantify the implications of the
19 disturbance that occurs periodically and quite
20 naturally in forests as well. As Sarah said, we are
21 working on quantifying the urban forest contribution
22 as well.

23 CHAIRMAN DOUGLAS: Can I ask a quick
24 question?

25 MR. KEITHLEY: Sure.

1 CHAIRMAN DOUGLAS: I would like to thank you
2 for being here. I always like to see these
3 interagency partnerships in doing research in areas
4 that are of importance to the state. I just wanted to
5 ask if you could give us a sense of how widespread
6 Bark beetle infestation is in California and what
7 measures can be taken or are being taken to reduce
8 that spread?

9 MR. KEITHLEY: It is widespread,
10 particularly in Southern California, following six or
11 seven years of extensive drought. The trees became
12 more susceptible to pest outbreaks. The beetles were
13 hungry and they expanded. There's also a presence in
14 the South Sierra. I'd like to emphasize, as I
15 mentioned, that disturbance from insects is a natural
16 form of disturbance in forests. There's quite a lot
17 of work done to protect communities in Southern
18 California that have been hard hit by this. There's
19 secondary interests in what can be done with the
20 biomass that's left over from excessive mortality of
21 trees in those areas. I think that this project is
22 designed to improve the monitoring of the forest's
23 conditions and the--both the carbon sources and syncs
24 the event from natural forms of disturbance.

25 CHAIRMAN DOUGLAS: Thank you.

1 MS. PITTIGLIO: I'd also add just that the
2 U.S. Forrest Service is doing a significant amount of
3 research on Bark beetle and they're looking at ways of
4 identifying stands that will potentially have a
5 problem and then doing whatever they need-

6 MR. KEITHLEY: Sorry. You triggered a
7 thought. In our State Forest Assessment Report we
8 include data from the Forest Service that estimates
9 areas that are at future risk of pest outbreak and
10 will certainly work with Sarah on providing that
11 information for the project.

12 CHAIRMAN DOUGLAS: Thank you.

13 COMMISSIONER PETERMAN: I'd just like to add
14 that our ability to verify the quality of carbon
15 offsets is going to be very important if we're using
16 the energy sector and so I think that this is a good
17 project and will be valuable to ratepayer and
18 consumers as well as we start to invest. Thanks.

19 MS. PITTIGLIO: Yeah. Before Richard
20 speaks, I also just wanted to say that meeting
21 together and creating this coordinated project we've
22 also included the U.S. Forest Service in the
23 discussions and we're keeping them up to date on what
24 we're doing.

25 MR. BODE: Good morning. I'm Richard Bode

1 with the Air Resources Board and as Sarah mentioned
2 that the Air Resources Board staff, UC, CAL FIRE and
3 every once in a while the US Forest Service join us in
4 a kind of steering committee on forest issues related
5 to greenhouse gases. The Air Resources Board is
6 responsible for maintaining an annual greenhouse gas
7 inventory. And it includes the Forest Sector that's
8 both carbon emissions from things like fires to decay
9 of down wood as well as sea crustacean of some CO2 in
10 the wood and trees.

11 So the contract that you're hearing today
12 from Sarah is actually going to be an integral part of
13 a new methodology we're looking to develop. Air
14 Resources Board right now is looking to finalize an
15 interagency with John Battles at UC Berkeley to create
16 for us a statewide better updated estimate of
17 statewide forest infestation and forest emissions.
18 He's going to use methods, both a combination of land
19 based survey methods as well as satellite remote
20 sensing data. One area that we have left out of our
21 current inventory in the contract we're looking for on
22 methodology is pests and disease and the impacts. I
23 think that this contract is going to have a vital
24 interest in updating our inventory and helping us.

25 CHAIRMAN WEISENMILLER: Commissioners, any

1 questions or comments?

2 CHAIRMAN DOUGLAS: Just a brief comment.

3 From some of the work that I've done in the climate
4 area in the past, I'm acutely aware of the debate that
5 pushes both directions on whether offsets are
6 appropriate and how much and how many safeguards. I
7 think a project like this is very important for
8 helping us to be more certain. If we have more
9 offsets in the program, the forests that we think
10 we're preserving are quite likely to actually make it
11 over the long-term and not succumb to something like
12 pests shortly after we think they have been preserved
13 and are sequestering carbon in the future. Yesterday,
14 I spend the day in Southern California working with
15 the Desert Renewable Energy Conservation Plan, which
16 is a stakeholder group, that's looking at planning
17 over the long-term to meet our long-term climate
18 goals, let's say our 2050 climate goals in the
19 electricity sector and what does that mean for desert
20 renewable energy development. One of the--and a tool
21 that we were playing with and one of the factors that
22 you can change is offsets allowed from the electricity
23 sector to other sectors with rich productions and so
24 obviously in a zero offset scenario you've got to
25 build a lot more renewable energy and you've got more

1 of a footprint then you do in a scenario say that
2 allows you even, say, 10 percent offsets. This is
3 discussion has pretty substantial real world
4 implications as ARB goes forward with the AB-32
5 implementation, especially looking longer term than
6 2020.

7 I'll move Item 8.

8 COMMISSIONER PETERMAN: I'll second.

9 CHAIRMAN WEISENMILLER: All in favor?

10 (Ayes.) This item passed unanimously.

11 Thank you.

12 Okay. Now we're up to Item 10. We've again
13 held Item 9 for the next meeting.

14 University of California, San Diego.
15 Possible approval of contract 500-10-043 with the
16 Regents of the University of California, San Diego for
17 \$1,394,298 to perform four projects in solar
18 installation forecasting, demonstrate distributed
19 energy systems, provide observability microgrid
20 operations and demonstrate renewable energy electric
21 charging vehicles, This is PIER electricity funding
22 and Jamie is the contact. Want to go forward?

23 MR. PATTERSON: Good morning, Commissioners.
24 I'm Jamie Patterson with the Research and Development
25 Division. In these four projects, we'll start with

1 explaining the talk about the renewable charging
2 electric vehicle project. This involves using a DC,
3 direct current, link charge cord. It will be tied in
4 with some PV solar. The idea behind the particular
5 project is to see if we can cut the losses that would
6 normally be experienced by having both of these
7 devices go through inverters. We have high hopes for
8 this one and will hopefully make greater use of the PV
9 power, which is of high value.

10 The second project is a distributed energy
11 storage project. We will be looking at an integrated
12 solution where we couple the energy storage with
13 photovoltaics to mitigate the intermittency of this
14 renewable generation resource.

15 Our third project is a microgrid
16 observability project. We will be working with UCSD,
17 we will be working with the CA ISO to provide some
18 monitoring capability for their microgrid. A
19 communication link will be installed and established
20 between the Cal ISO and UCSD which will provide full
21 observability of the operation of the microgrid that's
22 located down at UCSD.

23 We see that the evolution of the smart grid
24 may involve a series of microgrid developments and the
25 microgrids will need to be coordinated at the ISO

1 level so that way they can share resources across the
2 grid. I'd like to introduce a letter of support for
3 the particular project by the Cal ISO. They will be
4 providing in-kind support services and helping us with
5 that project to ensure that it is successful.

6 The last one that I would like to talk about
7 is the forecasting research. The ISO along with our
8 utility partners within the program have identified
9 forecasting as being of high priority to deal with
10 emerging renewables and our vision for 2020 goals of
11 the RPS.

12 What you will be seeing is the project today
13 and at our next business meeting we will have three
14 more projects that will deal with renewable
15 forecasting methods. These projects are closely
16 intertwined and linked. Staff will be working with
17 each other to ensure that the results from one
18 project, for example the project today will be used in
19 the subsequent project that you will hear about at our
20 next business meeting. And we will be working closely
21 to ensure that the results are transferred and the
22 research is not duplicative. Okay. This particular
23 research project will develop better interhour
24 forecasts for photovoltaics. We are looking primarily
25 at 15 minutes or less for that. It will be making use

1 of the UCSD developed device that they have called the
2 Sky Imager that will be tracking the cloud movement
3 near solar PV rays and also this will be in
4 development of some of the algorithms using that
5 device. And those algorithms will be further defined
6 in some of the other projects that you will be seeing
7 at our next business meeting. That is it. I ask for
8 your approval of this. Do you have any questions?

9 CHAIRMAN WEISENMILLER: First, I believe
10 that Byron Washon is on the line from UC San Diego.

11 MR. WASHON: Yes, I am.

12 CHAIRMAN WEISENMILLER: Do you want to say a
13 few words?

14 MR. WASHON: I just appreciate the
15 Commission's support of these four vital projects to
16 examine our renewable energy program and they
17 represent the cornerstone of our microgrid going
18 forward.

19 CHAIRMAN WEISENMILLER: Thank you. Some of
20 us had the opportunity to hear a discussion of this at
21 one of the IEPR Workshops and we certainly appreciate
22 the impressive work being done at UC San Diego on this
23 issue. We would also note that letter from the ISO is
24 from Petar Ristanovic, their Chief Technology Officer,
25 and note that Cal ISO has a Board meeting today so we

1 certainly appreciate the letter from an officer of the
2 Cal ISO and sure they're all tied up there at this
3 moment.

4 Any other questions or comments from the
5 Commissioners?

6 CHAIRMAN DOUGLAS: I'll just say that some of
7 the microgrid work that's being done in San Diego is
8 exciting and interesting and as we think about how to
9 integrate large levels of renewables into our system
10 and how to build a system that works differently with
11 higher levels of renewables in distributed generation
12 this is some of the work that will be foundational for
13 that, so I'm in strong support. Commissioner
14 Peterman, you have comments or if not, I'll move Item
15 10.

16 COMMISSIONER PETERMAN: I'll second.

17 CHAIRMAN WEISENMILLER: All in favor?

18 (Ayes.) This passed unanimously. Thank you
19 Jamie.

20 Item 11. Quallion LLC. Possible approval
21 of Amendment to approve of Grant Award ARV-10-010 with
22 Quallion LLC and to Resolution 10-1006-11 to add
23 \$5,888,000 for a total grant award of \$6,914,072. The
24 project is to develop a pilot automated manufacturing
25 line capable of producing 10,000 one-kilowatt-hour

1 lithium ion modules that can be used as the building
2 block for many types of battery systems, including
3 electric vehicles. This is ARFVTF funding. Jonah?

4 MR. MARGOLIS: Good morning, Commissioners.
5 I present for your approval additional funds to be
6 added to Quallion's agreement in the amount of
7 \$5,888,000 from fiscal year 2010-2011. Under the
8 initial agreement, Quallion only received \$1,026,000
9 of their initial \$9,000,000 requested. The reason for
10 this is that the \$19,000,000 in a solicitation was
11 depleted by higher ranking projects so there was only
12 remaining \$1,000,000 for Quallion's pilot line. This
13 pilot line is going to manufacture one-kilowatt
14 modules which are not just for battery packs in
15 electric vehicles but can be a building block for any
16 number of transportation applications.

17 By automating the manufacturer process,
18 Quallion hopes to drop the price point down of these
19 battery packs to a more affordable level right here in
20 California as both a California based company as far
21 as headquarters and manufacturing and the largest
22 producer of lithium modules in the United States.

23 It will create between 100-200 permanent
24 jobs here in California over the next three years. In
25 addition, Quallion uses only--the vast majority of its

1 supplies come from local suppliers within California.
2 We have a representative here from Quallion who would
3 like to speak on their behalf.

4 CHAIRMAN WEISENMILLER: Please come forward.

5 MR. VISCO: Good morning, Commissioners.
6 I'm Vincent Visco, Vice President of Aerospace and
7 Industrial Power Group. Like Jonah said, we are one
8 of the largest lithium cell manufacturers in the
9 United States primarily for medical and aerospace
10 work. We're grateful that the CEC is looking at the
11 modification to add additional funds to our original
12 award of \$1.1 million, with our cost share we're
13 looking at moving California to a state where
14 alternative stored energies are a key cornerstone to
15 helping out renewable energy and also helping out the
16 transportation and the anti-islanding markets. With
17 this support Quallion aims to be one of the first
18 lithium-ion manufacturers to have an actual pilot
19 module manufacturing line for large scale batteries
20 and then leveraging our core competencies in the
21 medical and aerospace field. We're going to be
22 manufacturing these modules to be safe and reliable
23 for a variety of industrial and green applications.
24 We are currently--most of the U.S. relies on oversea
25 manufacturers for lithium energy storage products for

1 consumer goods and advanced energy however with
2 California's adoption—early adoption of renewable
3 energy and new regulation for anti-islanding and fuel
4 economy they'll be a need for local advanced battery
5 manufacturer plants to enable the use of these green
6 technologies. This grant will help demonstrate the
7 feasibility and competitiveness for this advanced
8 battery manufacturing for such applications as
9 electric vehicles, anti-islanding technologies and
10 grid sustainability. The benefits of the California
11 facility in Sylmar, California include reduced
12 shipping cost, local service support and sustainment
13 of local industry. Some of the automated
14 manufacturing lines will also be sourced from local
15 California companies as well. And this lithium-ion
16 module will allow us to play an integral role in the
17 establishment of drastic energy savings solutions for
18 California applications as well as be a forefront of
19 the clean energy storage technology and clean
20 transportation. If there's any questions?

21 CHAIRMAN WEISENMILLER: Commissioners, any
22 questions or comments?

23 COMMISSIONER DOUGLAS: Not but I'd really
24 like to thank you for being here. It's great for us
25 to hear from you directly as well as hear about your

1 applications. I'm very glad that we were able to
2 supplement this agreement and able to really see your
3 expansion into the manufacturing for the clean energy
4 side. And as much as possible we'd like to be able to
5 foster economic development and deployment of
6 manufacturing of clean energy technologies here in the
7 state. I've been pleased to have been able to see a
8 few facilities manufacturing PV panels. As you get
9 this online, I'd love to see what you're doing with
10 batteries in the Los Angeles area, is that correct?

11 MR. VISCO: That's right. We're about 10
12 miles north of Burbank.

13 COMMISSIONER DOUGLAS: Excellent. I guess
14 my only question would be as you think about--you're
15 starting out with a pilot or demonstration
16 manufacturing line in this area, what does the next
17 step look like and what sort of factors would need to
18 come together to go from that to larger scale
19 production?

20 MR. VISCO: The next step is really for
21 these modules lines, we are going to be targeting key
22 customers in some of the transportation markets that
23 can afford a kind of pilot line type prices. As we
24 start establishing and getting that thorough put in,
25 we'll probably end up investing our own dollars to

1 make it even more automated and get the kind of touch
2 labor from the actual assembly down but still,
3 obviously, have technicians and quality engineers to
4 be watching the line and just bring up the volume.
5 The goal is to, obviously, get a module design so one
6 of the issues with looking at modular technologies is
7 that it's a very expensive type of energy storage
8 chemistry from not only material levels from just in
9 how you make it. And in order to really reduce the
10 costs of those advanced batteries to maybe only four
11 or five times the cost of the lead acid chemistry you
12 really have to start modularizing some of these
13 components so you're not always redesigning on a whim
14 of a new transportation customer and that's really
15 established a smart building block to go off of and be
16 able to penetrate different markets and do a little
17 bit of non-recurring engineering to make sure that the
18 customers are getting 90 percent of the benefit of
19 your automated line.

20 COMMISSIONER DOUGLAS: That makes sense.
21 That's really helpful. And I just have one more
22 question. I saw on the materials that this will
23 result in the creation of 100-200 jobs. Is that--can
24 you give me a sense of both the numbers and also the
25 kind of backgrounds of the people you'd be hiring from

1 engineering to technicians, like what industries they
2 might have come from, what kind of training?

3 MR. VISCO: General training the technicians
4 are folks who have—they typically get hourly workers,
5 they come from understanding how to do welds, people
6 from ITT and stuff like that, little bit more
7 electrical engineering, electrical backgrounds, could
8 even be electricians who understand how to put these
9 modules together. And there is a set of engineers
10 that actually have to look from a quality and
11 manufacturing line to ensure that the technicians are
12 following their processes line and the manufacturing
13 engineers are watching to make sure that the
14 throughput is doing what they need to do. There's
15 also a certain amount of engineers that are involved
16 for just getting the plant set up, going through that
17 we would be using those engineers to help set that up
18 as well. And depending on how much volume is, we need
19 to scale up technicians because while it's automated,
20 it's not fully automated so there is going to be some,
21 as you move from process to process, some handholding
22 of that gear. And you're also dealing with workers
23 who work in the supply chain of the materials as
24 incoming and receiving, looking at our vendors, going
25 to our vendors for quality control. So it's an

1 organic growth and we're currently at 180 folks right
2 now so boosting up to about 300, 320 is definitely our
3 stated goal with this line.

4 COMMISSIONER DOUGLAS: That's great. What's
5 your online date? What's your goal for that?

6 MR. VISCO: We're looking at, the equipment
7 is about a six to eight month lead time with the
8 design, we're looking at this project to be online
9 between 14-18 months.

10 COMMISSIONER DOUGLAS: Thank you. Thanks
11 for being here.

12 MR. VISCO: Thank you.

13 CHAIRMAN WEISENMILLER: Yes, thanks for
14 being here. Commissioners, any other questions or
15 comments?

16 COMMISSIONER PETERMAN: I'll just make one
17 comment. First of all, the line of questioning was
18 very interesting to me, Commissioner Douglas so thank
19 you. I attended a workshop on storage we held here at
20 the Commission a few weeks ago and a recurring theme
21 was the importance of volume and so it's good to see
22 this project trying to do more automation and increase
23 the deployment of storage technologies. It was also
24 nice to see that this would be of use not only to our
25 transportation sector but our electricity sector as

1 well. Thanks.

2 COMMISSIONER DOUGLAS: Move Item 11.

3 COMMISSIONER PETERMAN: I'll second.

4 CHAIRMAN WEISENMILLER: All in favor?

5 (Ayes.) This passed unanimously. Thank
6 you.

7 MR. VISCO: Thank you.

8 CHAIRMAN WEISENMILLER: Item 12. Solazyme,
9 Inc. Possible approval of Agreement ARV-10-047, for a
10 grant of \$1,472,638 to Solazyme, Inc., to develop and
11 test the feasibility of a pilot production plant that
12 will convert algae feedstock into renewable oil for
13 vehicle use. This is ARFVTF funding and Joanne?

14 MS. VINTON: Good morning, Commissioners.
15 My name is Joanne Vinton, I'm with the Emerging Fuels
16 and Technology Office. Solazyme submitted this
17 proposal in response to PON-09604 Biofuel Production
18 Plants. Solazyme plans to design and build a pilot
19 scale algae oil production facility in South San
20 Francisco. The algae will grow in the dark by eating
21 sugars from a California feedstock which can include
22 switchgrass, waste glycerol and sugar beets. Solazyme
23 will analyze the oil that the algae produce, identify
24 the best operating conditions and ship the oil to a
25 refiner to produce renewable diesel. The diesel will

1 be sent to an engine testing facility to analyze
2 performance and emissions. Solazyme will demonstrate
3 that renewable diesel can be produced at commercial
4 scale for a cost ranging from \$1.45 to \$2.75 per
5 gallon depending on type of feedstock and location.
6 The company's renewable diesel will reduce greenhouse
7 gas emissions by 71 percent compared to petroleum.
8 The company is requesting \$1,472,638 out of \$19
9 million total for this solicitation. Their match is
10 more than \$2.7 million. Sarah McQuaid was going to be
11 here—ah, she is here.

12 CHAIRMAN WEISENMILLER: Please step forward.

13 MS. MCQUAID: Good morning, ladies and
14 gentlemen. Thank you so much for considering our
15 request for reward. I'm sorry I didn't prepare formal
16 remarks but I did want mention that Solazyme is a
17 leading producer of renewable oils from algae. We use
18 a unique technology. To-date we are the only algae
19 company which grows algae in standard industrial
20 fermentation tanks in the dark. We have, so far,
21 produced hundreds of thousands of gallons of renewable
22 diesel under contract for the DOD. So we really
23 understand how to do this but what we're trying to do
24 with this grant is both to understand how we can—how
25 we may be able to utilize idle death in all plants in

1 California and retrofit them for uses as algae oil
2 producing plants. Also, how we may be able to use
3 California feed stocks. Specifically at least at this
4 moment, sugar beets. And in addition, by building
5 this pilot plant at our South San Francisco facility,
6 we are adding to our ability to understand how to do
7 this. We have so far been using contract facilities
8 scattered across the country. We are building an
9 integrated pilot plant elsewhere in the country on a
10 much larger scale but this particular grant would
11 allow us to backfill a smaller scale capacity that
12 allows us to really to do a lot of research and
13 understand how best to bring down the costs, how to
14 optimize fermentation on these feedstocks and again,
15 as I mentioned before, how we might be able to
16 retrofit idle death in all plants in California. So I
17 hope that you will support our application. Thank you
18 very much.

19 COMMISSIONER DOUGLAS: Thank you also for
20 being here. It's great. I really like having the
21 opportunity to learn more and ask you a couple more
22 follow-up questions about what you're proposing and
23 what—I guess, let me ask the level of production that
24 you would get from the pilot facility, the level of
25 employment that it represents, the backgrounds that

1 people would need to have to get into that and finally
2 kind of what it takes to take to get to scale. Going
3 from this pilot project, other pilots you say you have
4 in other places, so what does it take beyond that to
5 really scale up?

6 MS. MCQUAID: Obviously, there are multiple
7 staffs involved. Solazyme has a pretty unique
8 business model in that we understand that it requires—
9 that there's sort of a valley of death between this
10 very small scale at this particular plant, the
11 intention of this pilot plant is not to produce at
12 scale but it is a research facility, but Solazyme's
13 model is to fill the valley of death by producing
14 high-value oils, tailored oils that can be used for
15 multiple other applications. For instance, skin care,
16 food, chemicals and other renewable based oil
17 products. And we believe that will allow us to scale
18 to the commercial scale that is needed; hundreds of
19 millions of gallons of oil ultimately. Our larger
20 scale pilot plant is in another location in the U.S.
21 and it is in more of the thousands of gallons of oil
22 whereas this plant would be hundreds or even tens of
23 gallons but the primary goal of this pilot plant is to
24 gather together in one place, multiple elements to
25 produce an integrated small scale pilot plant where

1 many perimeters can be tested in very, very controlled
2 circumstances.

3 COMMISSIONER DOUGLAS: Well that's great and
4 I'm interested to hear that you see the market for
5 this well beyond vehicle fuels to other cosmetic
6 products and other products that definitely is a huge
7 market, that would be a huge contribution, so I'm very
8 interested by some of the algae to biofuel proposals
9 that come before us. It definitely sounds like a
10 production process that can both come to scale and
11 come to scale with fewer potential environmental
12 impacts and/or pretty strong environmental benefits.
13 Such as using nitrogen sources that are causing
14 problems in our water bodies or our oceans and
15 actually doing something productive with them. Thank
16 you. I don't think that I have any more questions but
17 I'm in strong support of this Item.

18 COMMISSIONER PETERMAN: I have one follow-up
19 question. Can you comment on the advantage of doing
20 this process versus converting the feedstocks directly
21 to fuel?

22 MS. MCQUAID: Meaning or other
23 techniques?

24 COMMISSIONER PETERMAN: Right versus using
25 the sugar beets or the grass and converting those

1 directly to biofuel versus using them as food for the
2 algae.

3 MS. MCQUAID: Yes, I believe there are very
4 high capital costs involved in pyrolysis. It's not
5 really a proven process. Obviously there will be
6 multiple technologies required for us as a nation to
7 get to our sustainability goals but we certainly
8 believe that the technology that we are using is
9 extremely viable as proven by the fact that we are
10 already producing hundreds of thousands of gallons of
11 renewable oil which is readily and easily converted
12 into standard transportation fuels which are dropping
13 to current distribution networks and current vehicles.
14 We certainly believe that our technology is superior
15 and has a greater chance of success.

16 COMMISSIONER PETERMAN: I must admit that I
17 didn't actually understand the first couple of words
18 that you said because they were quite technical but it
19 was nice to hear the greater discussion and I think
20 that it's my understanding that with algae, the energy
21 density and the concentration in what you can grow in
22 a relatively small footprint is one of the advantages.
23 Thanks.

24 MS. MCQUAID: Absolutely.

25 COMMISSIONER DOUGLAS: And I guess, I'll

1 just follow on with a question. I heard you say that
2 this fuel can be used in existing vehicles and this
3 does not require turnover of the vehicle fleet or the
4 fuel infrastructure.

5 MS. MCQUAID: That's absolutely right. Our
6 algael oil can be refined in a standard refinery to
7 standard renewable diesel which meets all of the
8 specifications of normal diesel and can be used to
9 drop in neat in standard diesel vehicles. In fact, we
10 have a couple of vehicles that sit in front of our
11 building that run around on this fuel all the time.

12 COMMISSIONER DOUGLAS: That's great. And
13 your costs per gallon seem to be pretty low.

14 MS. MCQUAID: Obviously we have to scale up
15 in order to meet those numbers but our current
16 modeling supports that.

17 COMMISSIONER DOUGLAS: That's great. All
18 right. I will move Item 12.

19 COMMISSIONER PETERMAN: I will second Item
20 12.

21 CHAIRMAN WEISENMILLER: All in favor?

22 (Ayes.) This passed unanimously.

23 Thank you. Thanks for being here.

24 MS. MCQUAID: That's very much.

25 CHAIRMAN WEISENMILLER: Item 13. Vehicle

1 buy-down incentive reservations. Possible approval of
2 a total of \$4,755,000 in vehicle buy-down incentive
3 reservations. This is ARFVT funding. The list of
4 those are South Bay Ford in the amount of \$357,000 for
5 a buy-down of 119 natural gas vehicles, up to 8,500
6 pounds gross vehicle weight; Big Valley Ford in the
7 amount of \$192,000 for a buy-down of 32 propane
8 vehicles, 8,501 to 14,000 pounds gross vehicle weight;
9 Galpin Motors, Inc., dba Galpin Ford, in the amount of
10 \$150,000 for the buy-down of 25 propane vehicles,
11 again 8,501 to 14,000 gross vehicle weight; Tuttle
12 Click Ford, in the amount of \$24,000 for the buy-down
13 of 8 natural gas vehicles, up to 8,500 pounds gross
14 vehicle weight and \$8,000 for the buy-down of 1
15 natural gas vehicle, 8,500 to 14,000 pounds gross
16 vehicle weight for a total reservation amount of
17 \$32,000; Hansel Ford, Inc., in the amount of \$64,000
18 for the buy-down of 8 natural gas vehicles, 8,501 to
19 14,000 pounds gross vehicle weight; Serramonte Ford,
20 in the amount of \$120,000 for the buy-down of 15
21 natural gas vehicles, 8,501 to 14,000 pounds gross
22 vehicle weight; Autocar, LLC, in the amount of
23 \$1,280,000 for the buy-down of 40 natural gas
24 vehicles, 26,001 pounds gross vehicle weight and
25 greater; Kenworth Truck Company, in the amount of

1 \$1,280,000 for the buy-down of 40 natural gas
2 vehicles, 26,001 pounds gross vehicle weight and
3 greater; Daimler Trucks North America LLC, in the
4 amount of \$1,280,000 for the buy-down of 40 natural
5 gas vehicles, 26,001 pounds gross vehicle weight and
6 greater. Pete?

7 MR. WARD: Thank you, Commissioners. Good
8 morning. I'm here to present this item for approval
9 for the second Business Meeting of these incentives
10 for the buy-down vehicle incentive program. These are
11 reservations that are reserved and will be encumbering
12 the funds if approved today. The manufacturers, the
13 OEMs, or their designated dealers or distributors will
14 have 120 days to sell these vehicles and then to
15 produce the registration and the sales transaction
16 information to claim the funding from the Office of
17 the State Comptroller. All of the funds covered here
18 will be going to vehicles and provide good leverage in
19 the marketplace and we think that this is going to be
20 a very successful solicitation going forward, it is
21 fairly simple and very straightforward. So far we
22 have had very good reactions from all of the OEMs
23 designated dealers and distributors for the sale and
24 purchase of alternative fuel vehicles. I recommend
25 approval of this Item and I thank you for reading all

1 of the designations and saving me from doing that.

2 CHAIRMAN WEISENMILLER: I believe we have
3 one member from the public here.

4 MR. EDGAR: Good morning, Commissioners and
5 staff. My name is Sean Edgar. I'm the Executive
6 Director of the Clean Fleets Coalition. I want to
7 thank you for attending to this very important item to
8 really propel CNG vehicles forward. I'm privileged to
9 have had a 15 year relationship with the Commission,
10 first as an alternative fuel retailer and second as a
11 contributor to your IEPR Process over the years.
12 Commissioner Boyd used to lament that I would come in
13 front of him, telling him all sorts of things about
14 the Air Resources Board and the advanced technologies
15 that they wanted our vocational truck users to deploy
16 and we just didn't have the funding to do it. This, I
17 think, will be a critical piece toward being able to
18 deploy alternative vehicles so my compliments to the
19 staff for working very closely with us. I'm here on
20 behalf of AutoCar Truck LLC. I know OEM manufacturer
21 of our vocational trucks and really a market leader in
22 advanced technologies and we're very grateful to offer
23 our support as well as three critical items that I
24 want to bring to your attention that I think today's
25 funding does.

1 First, it allows us to strategically deploy
2 trucks and we understand that the subtext and the
3 intent of your program announcement is really toward
4 allowing us to leverage resources wisely and staff has
5 obviously prepared us for that so our intent is to
6 identify key customers in order to utilize the
7 incentive wisely to make it a meaningful program.

8 Secondly, you'll be able to track our
9 progress over time and we're very excited about the
10 prospect to be able to have a look back on how the
11 program funds were spent with the goal of really
12 making sure that your reports to other authorities
13 under AB118 are absolutely reflect transparently what
14 the funds were used for.

15 And then finally our success in this initial
16 funding effort will really, hopefully, justify program
17 funds to come to get more alternative fueled vehicles
18 deployed so we're really looking forward to utilizing
19 this program successfully if we can hit the ball out
20 of the park here, so to speak, and really make it a
21 meaningful program that we'll see additional program
22 funds flow into here working with you all and your
23 staff.

24 So just in closing, I just have a few
25 handouts for you just to recognize that AutoCar Truck

1 with this technology provider Parker Hannifin has a
2 really exciting hydraulic hybrid project that we're
3 going to come back to you over the summer months with
4 your program announcement under AB118 Advanced
5 Technologies and so I just have a brief handout to
6 leave you with the thought that getting to this level
7 of natural gas vehicle deployment and then being able
8 to perhaps combine it with an efficiency system as
9 we're talking about with the AutoCar Truck project,
10 which you'll hear more over the summer about, really
11 allows us to take from diesel to alternative fuel and
12 then hopefully take that to the next level as well
13 working with you on the AB118 program over time. With
14 that I'll just be happy to answer any questions you
15 might have. But we'd like to be strategic,
16 transparent and hoping for your additional support
17 when we hit the ball out of the park with this
18 program.

19 CHAIRMAN WEISENMILLER: Thank you.

20 Commissioners, any questions or comments?

21 COMMISSIONER PETERMAN: I have a question.

22 Specifically, what type of customers are you
23 targeting? And then more generally, and perhaps Mr.
24 Ward can answer this, is there a component for
25 consumer education, awareness marketing, in order to

1 attract a larger pool of customers going forward?

2 MR. EDGAR: I can answer the first question.

3 We're looking at--there's a heavy amount of interest on
4 behalf of public agencies who today's budgets are
5 stretched and their ability to get into alternative
6 fuel vehicles with the price point still being higher
7 so we have a lot of interest expressed from public
8 agencies, some of the larger cities. AutoCar Truck
9 makes a vocational truck which is well suited to solid
10 waste collection and recycling collection so larger
11 cities that operate those types of fleets have
12 expressed interest. Also companies, both large and
13 small, who utilize those vehicles to really deploy
14 some of the high recycling programs that AB32 called
15 for. So those are the mix of customers, private
16 entities and also public agencies.

17 COMMISSIONER PETERMAN: Mr. Ward, anything
18 else?

19 MR. WARD: In response to your question,
20 Commissioner. Yes, in the alternative of fuel
21 available--alternative fuel vehicle technology program,
22 we are about to launch a website and a marketing
23 effort to provide consumers from citizen consumers to
24 public and private fleets as well, the advantages and
25 possibilities from this program of helping them make

1 choices to embrace non-petroleum fuels and those fuels
2 that have lower carbon emissions, lower criteria
3 emissions, provide economic development and jobs for
4 California.

5 COMMISSIONER DOUGLAS: Just a brief follow
6 up question or different question, really. When I was
7 on the Transportation Committee, we had a pretty
8 robust discourse about the propane vehicles and where
9 they were best deployed and I think I at least walked
10 away with the conclusion that they're best deployed in
11 areas that do not have easy access to the natural gas
12 infrastructure in the state and therefore are really
13 good alternative to be a cleaner burning vehicle in
14 those areas. Is the propane deployment geographically
15 targeted in any way or is it pretty much statewide?

16 MR. WARD: I would say that it's more state
17 wide at this point and as an energy resource here in
18 California we are exporting propane right now. This
19 fuel can replace gasoline and diesel on a gallon per
20 gallon basis. It has lower carbon footprint of about
21 20 percent, like most alternative fuels do. It also
22 reduces criteria emissions as well. It has had a
23 longstanding relationship with agriculture and with
24 construction. But I think the possibilities have opened up
25 for shuttle buses as well in metropolitan areas as

1 ROUSH, ROUSH has had a cooperative relationship with
2 Ford and initially they would be converting four Ford
3 pickup trucks of various sizes but they're also going
4 to do even up to the larger sizes of shuttle buses
5 that can be used as transport in cities and in
6 airports.

7 COMMISSIONER DOUGLAS: That's helpful. Is
8 there a specific breakdown on public agencies versus
9 private, say commercial, users? Is it available to
10 just individuals who want to get a rebate? How are
11 the rebates targeted?

12 MR. WARD: It's available to anyone who
13 purchased a vehicle from the dealership. Currently
14 they can come into a Ford, in the case of the propane,
15 into a Ford dealership and buy a pickup truck or a
16 shuttle from them. That's true for the natural gas as
17 well. We are trying to target the OEMs and their
18 designated dealers and distributors as the highest
19 point of us providing funding and it eases the
20 administrative overhead for us to be deploying these
21 incentives for the deployment of these vehicles but it
22 is pretty much available to anyone who walks into a
23 dealership, most of the vehicles that are sold there.

24 COMMISSIONER DOUGLAS: And just a last
25 question, when we talk about leverage per vehicle.

1 What's the kind of private or what's the leverage
2 share versus the rebate? Is there an average? Does
3 it vary pretty substantially between the different
4 classes of vehicles?

5 MR. WARD: All the different classes, of
6 course, have a different incentive level. All of the
7 incentives that we are providing are targeted to
8 provide the incremental cost above a gasoline or
9 diesel vehicle and that's current now. The levels for
10 this solicitation are fixed now. But in the future we
11 expect that those differentials will be going down. I
12 fully expect with more entrance into the market, we
13 would be providing a lesser amount per vehicle as the
14 differential costs of these vehicles decreases with
15 the increase in supply and production of the vehicles.

16 COMMISSIONER DOUGLAS: I guess one more
17 follow up question just based on that. Do we see the
18 market changing? Do we see more auto manufacturers or
19 truck manufacturers moving into this space? Is there
20 a case behind the argument that we see increasing
21 supply in these alternative fuel vehicles?

22 MR. WARD: We definitely do. In the past
23 there has been just one heavy duty natural gas engine.
24 Now there are two. It is from the main manufacturer,
25 Cummins Westport, but there are American manufacturers

1 developing natural gas engines as well in the medium
2 and light duty sector there are—in the past there have
3 been, they’ve gone out of the business for awhile and
4 now they’re coming back. I know that General Motors
5 and Ford are keenly interested in this market again
6 and I think this program has brought together those
7 entities that would up fit their vehicles and bring
8 them closer to the OEMs in setting the stage,
9 basically, for larger volumes of these vehicles to be
10 produced. In the past, it’s been kind of a one-off
11 and I think in the future we’ll see scale up of this
12 and, of course, this is good news for us as well as we
13 scale up the number of vehicles that are sold and
14 purchased in the state, the incremental cost should
15 and will be going down per vehicle.

16 COMMISSIONER DOUGLAS: That’s great. And
17 you mentioned Cummins. Are there others of these
18 vehicles or engines that are manufactured in the U.S.?

19 MR. WARD: Yes. The manufacturer that
20 escapes me now, I’d hate to say the wrong one in a
21 public meeting but one of the manufacturers, one of
22 the OEMs, in the United States is anticipating
23 producing its own natural gas engine as well.

24 COMMISSIONER DOUGLAS: That’s great.
25 Sometime, not at the Business Meeting, I’d love to

1 hear more about this and how the market is changing.
2 It's something that we wanted to see for a long time,
3 of course natural gas is cleaner burning and produced
4 here in the United States and with a fairly low price
5 right now, hopefully as we build more and more
6 renewable energy we might even free up some natural
7 gas to go in vehicles.

8 MR. WARD: That's right. Of course natural
9 gas, and there might be an aspect for renewable
10 propane in the future, but natural gas we have a large
11 investment in California biomethane production and
12 that fuel can be utilized by these vehicles without
13 any modification as well.

14 COMMISSIONER DOUGLAS: So I can't resist.
15 How is renewable propane produced?

16 MR. WARD: Um, well.

17 COMMISSIONER DOUGLAS: Sorry, I just can't
18 resist.

19 (LAUGHTER.)

20 MR. WARD: It can be produced through a DME
21 process that we can take renewable materials and
22 produce that and can be blended into propane as its
23 permissible in the liquid propane fuel. It also, DME,
24 in the future can be utilized as a direct diesel
25 replacement in heavy duty trucks as well. So there is

1 that aspect. There is some limited research going on
2 in that area.

3 COMMISSIONER DOUGLAS: Okay. Well, thank
4 you. After all of those questions, I feel obligated
5 to move Item 13.

6 (LAUGHTER.)

7 COMMISSIONER PETERMAN: I just want to make
8 one follow up comment before I second that motion and
9 that is that I was particularly happy to hear your
10 comments Mr. Ward about the website and the public
11 information. There's been research that shows that
12 when you offer incentives to dealerships, one of the
13 factors that affects how much of that incentives
14 actually falls through to the bottom line and the
15 price the customer sees is the information that is
16 available. So the more transparent we can be with
17 that the better. With that, I will second the motion.

18 CHAIRMAN WEISENMILLER: All in favor?

19 (Ayes.) This passed unanimously. Thank
20 you.

21 MR. WARD: Thank you.

22 CHAIRMAN WEISENMILLER: Item 14. Los
23 Medanos Energy Center 98-AFC-1C. Possible approval of
24 a petition to amend the California Energy Commission
25 Decision to modify the Los Medanos Energy Center, to

1 make efficiency improvements to the Advance Gas Path
2 on the existing turbines S-1 and S-3. No Conditions
3 of Certification are proposed to change as part of
4 this petition. Christine?

5 MS. STORA: Yes, thank you Commissioners,
6 and good morning. My name is Christine Stora and I've
7 overseen the amendment process for the Los Medanos
8 Energy Center. With me today is Senior Staff Counsel
9 Kevin Bell as well as Commission Technical Staff and a
10 representative from Calpine.

11 Los Medanos Energy Center is a nominal 500
12 megawatt combined cycle power plant which was
13 certified by the Commission on August 17, 1999. On
14 April 19 of this year, Calpine filed a petition with
15 the Energy Commission requesting to make efficiency
16 improvements to the advanced gas path on existing
17 turbines S-1 and S-3. Fire and temperature is
18 proposed to increase to make these improvements. No
19 conditions of certification are proposed to change as
20 part of this petition.

21 Specifically, the proposed changes include
22 replacing turbine blades with ones that will be
23 fabricated from a new metal alloy that can withstand
24 higher temperatures. Nozzles will also be replaced by
25 ones that are fabricated from temperature resistant

1 alloys. There will be reduced clearance between parts
2 in the combustor section of the turbines and
3 installing low pressure drop combustors.

4 Fuel efficiency of the power plant would
5 increase slightly as a result of these changes. There
6 is no possibility that the changes would have any
7 effect on the environment or on public health and
8 safety as the proposed changes will not result in the
9 exceedance of any limits set forth in the Conditions
10 of Certification.

11 This project will remain in compliance with
12 all applicable laws, ordinances, regulations and
13 standards subject to the provisions of Public
14 Resources Code Section 25525. The Bay Area Air
15 Quality Management District has reviewed the amendment
16 request and has issued a draft proposed engineering
17 evaluation. The draft analysis is favorable to the
18 changes and is considered to be an alteration of the
19 project's permit to operate.

20 A Notice of Receipt was mailed to the post-
21 certification mailing list and to affected public
22 agencies, docketed and posted to the Commission
23 website on April 26. A notice of staff improved
24 modification pursuant to Title 20 1769 (A) (2) was
25 posted on the website on April 29. Public comments

1 were received from James McDonald with CARE concerning
2 the firing temperature and NOx emissions. These
3 comments have been docketed and posted to the website.
4 Staff has opted to treat these comments as an
5 objection to the staff improved modification. The
6 staff analysis was prepared and posted to the
7 Commission website on May 9. Staff recommends that
8 the Energy Commission approve this petition to mend,
9 based upon staff's findings in accordance with Title
10 20 1769(A)(2). At this time, staff would be happy to
11 address any questions you might have.

12 CHAIRMAN WEISENMILLER: Commission, any
13 questions—

14 Well, first of all, I guess we have one
15 public member who'd like to speak. Bob Sarvey? And
16 actually, let's start with the applicant. Excuse me.
17 And then Bob.

18 MR. WHEATLAND: One second, Bob. I'll be
19 very quick. I'm Greg Wheatland and with me is Barbara
20 McBride. We'd like to thank the Commission for the
21 consideration of this Item. We really have no
22 prepared presentation and we'd be happy to address any
23 questions the Commission may have.

24 CHAIRMAN WEISENMILLER: Thank you. Bob?

25 MR. SARVEY: Yep. Bob Sarvey. Thank you,

1 Commissioners. Mr. McDonald asked me to ask a few
2 questions here and maybe clarify some issues.

3 One, he's interested in what the actual
4 temperature change is going to be on this project. I
5 personally support anything that increases energy
6 efficiency but the fear here is that with the increase
7 of temperature the NOx emissions will increase. And
8 we understand that from staff that NOx emissions won't
9 go over the current permitted limits but our concern
10 is this is an environment justice community and we're
11 concerned about that issue but we're also concerned
12 that the current NOx limit on this project is 2.5 BPM
13 and current back is 2 BPM so we think that there's an
14 issue there and some questions that need to be
15 answered before it's approved. And with that, that's
16 all I had to say about that. Thank you.

17 CHAIRMAN WEISENMILLER: Staff, do you want
18 to respond?

19 MR. BELL: No, Mr. Chairman.

20 CHAIRMAN WEISENMILLER: Applicant?

21 MS. MCBRIDE: I can respond to the
22 temperature increase. The firing temperature is going
23 to increase from 2,420 degrees to 2,445 so it's about
24 a 25 degree temperature increase, about less than one
25 percent. So that's what the temperature increase is

1 going to be.

2 MR. BELL: That I can add to, Mr. Chairman.

3 CHAIRMAN WEISENMILLER: Okay.

4 MR. BELL: And that is there are no

5 Conditions of Certification that govern the

6 temperature, the firing temperature, on the turbines.

7 So since no conditions are being affected by this

8 change that is one of the factors that staff took into

9 consideration on recommending that this first be

10 approved without formal Commission action and second

11 that it be approved on the Commission's vote.

12 CHAIRMAN WEISENMILLER: Commissioners, any

13 questions or comments?

14 COMMISSIONER DOUGLAS: When we discussed

15 this in Siting Committee and my understanding from

16 that discussion is that these changes would improve

17 the plant efficiency but not effect criteria pollutant

18 emissions. Is that correct?

19 MR. BELL: That is correct.

20 COMMISSIONER DOUGLAS: Okay. Thank you. No

21 other questions.

22 COMMISSIONER PETERMAN: No questions.

23 COMMISSIONER DOUGLAS: All right. Move Item

24 14.

25 COMMISSIONER PETERMAN: I second.

1 CHAIRMAN WEISENMILLER: All in favor?

2 (Ayes.) This item passed unanimously.

3 We're going to take a five minute recess.

4 (Brief recess at 11:22 a.m. Workshop
5 resumes at 11: 27 a.m.)

6 CHAIRMAN WEISENMILLER: Item 15. Oakley
7 Generating Station Project 09-Afc-4, and Errata.
8 Possible adoption of the Presiding Member's Proposed
9 Decision, and Errata, on the Oakley Generating Station
10 Project. This project is a natural gas-fired,
11 combined-cycle facility with a nominal generating
12 capacity of 624 megawatts located in Contra Costa
13 County. Kourtney?

14 MS. VACCARO: Good morning, Chairman
15 Weisenmiller and Commissioners. I'm Kourtney Vaccaro
16 with the Hearing Advisors Office and I'm very pleased
17 to stand before you today to present the presiding
18 member's decision and Committee ERRATA for the 624
19 megawatt combined-cycle natural gas facility to be
20 sited on previously disturbed private property in the
21 City of Oakley.

22 By way of brief background, the data-this
23 application for certification was deemed data adequate
24 in September of 2009. So during the very long
25 pendency of this matter before this agency, we've had

1 meaningful and substantive participation from three
2 parties. We've had the applicant, staff and we've had
3 intervenor Robert Sarvey. During that time, the
4 Committee and the Agency also received several public
5 comments and comments from interested agencies
6 including the United States Fish and Wildlife Service.
7 As reflected in the PMPD, the Committee gave very
8 careful consideration to the evidence, to all of the
9 comments received and was in the position of having to
10 resolve disputes, particularly disputes relating to
11 nitrogen deposition as discussed in the biological
12 resources section of the PMPD. The PMPD was put out
13 for the required 30 day comment period. During that
14 time, comments were received from only four sources.
15 The three parties as previously identified and a
16 comment letter from the United States Fish and
17 Wildlife Service which essentially reiterated the
18 comments that the agency had made throughout the
19 process.

20 During the comment period on the PMPD,
21 including the Committee conference, the Committee
22 again carefully considered the input from those four
23 sources and modified the PMPD as appropriate which is
24 reflected in the ERRATA before you.

25 As stated in the PMPD, the Committee made

1 two critical findings. First, that with mitigation
2 this project will not result in significant
3 environmental impacts and second that the project will
4 comply with all applicable laws, ordinances and
5 standards. With that, the Committee is recommending
6 approval not only to the presiding members proposed
7 decision but also the written ERRATA before you.
8 There is one scrivener's error in the ERRATA which, I
9 am embarrassed but I was the scrivener, and it does
10 need to be corrected. If I can invite your attention
11 to page eight of the ERRATA, the second full
12 paragraph, third line from the bottom. The important
13 word 'not' is missing such that we need to ensure that
14 the phrase, starting at about the fourth lines up
15 reads: We determined that the mitigation is adequate
16 and that the project will not result in a
17 (indiscernible) jeopardy of the species at the Antioch
18 NWR as those terms are defined by CESA and the Federal
19 Endangered Species Act. I apologize for any
20 inconvenience. The parties were given a head's up and
21 indeed one party advised me that the word 'not' was
22 missing.

23 And the second thing that I would like to do
24 is just add for the record, a point of clarification.
25 There are two figure referenced in the ERRATA and to

1 be sure that no one is confused about what those
2 figures are, we are removing land use Figure one and
3 replacing it with Figure 5.6-1 from the AFC. This was
4 something specifically requested from one of the
5 parties during the comment period. There was no
6 objection to it when we discussed it at the Committee
7 conference on the PMPD.

8 The second modification regarding the
9 figures, is that we were introducing a news noise
10 figure, Noise Figure one, which comes directly from
11 Final Staff Assessment Figure one. Again this was
12 something that as addressed during the comment period.
13 There were no objections but I wanted to make sure
14 that the record accurately reflects what we're doing
15 with those figures.

16 So with that, I'll close my comments and
17 answer any questions that you might have for me.

18 MR. LEVY: Mr. Chairman. Pardon me, Mr.
19 Chairman. Could Ms. Vaccaro better identify where
20 that scrivener's error was on page eight?

21 CHAIRMAN WEISENMILLER: That's a good idea.
22 Please.

23 MS. VACCARO: Page eight, second full
24 paragraph, third line up from the bottom.

25 MR. LEVY: Page eight of the ERRATA?

1 MS. VACCARO: I'm sorry. Yes, in the
2 biological resources section of the ERRATA.

3 MS. JONES: Indiscernible (off-mic).

4 MS. VACCARO: It is not a condition. It is
5 narrative that is contained within the PMPD itself,
6 page eight of the ERRATA identifies that it has
7 lengthy additional language. I don't know if you have
8 the ERRATA before you. I know the Commissioners
9 certainly received a copy of it.

10 MR. LEVY: Commissioners have it.

11 CHAIRMAN WEISENMILLER: Commissioners, any
12 questions? No? Okay. Applicant, you want to start?

13 MR. GALATI: Hi. My name is Scott Galati,
14 here representing CCGS LLC which is wholly owned by
15 Radback Energy for the Oakley Generating Station.

16 Commissioner Weisenmiller, you once said
17 when you first came to this Commission, you gave
18 advice during a renewable energy large meeting about
19 how applicants should do their best to try to find
20 doors instead of mashing into walls, so to speak.
21 This applicant did that. They had 100 percent
22 agreement with staff and including entered into a
23 joint stipulation, taking issues off the table when
24 air quality public health and how air quality and
25 public health effected environmental justice with the

1 intervener. So I think that this applicant has done
2 that. This project enjoys widespread local support.

3 The issues with respect to nitrogen
4 deposition are issues that were fully adjudicated,
5 thoroughly briefed and we don't think that any of this
6 most recent comment letter or anything else that you
7 might hear today is going to change what happened at
8 the evidentiary hearing but I'll reserve my comments
9 for that if the Commissioner would like to hear a
10 response to anything that might come up today on
11 nitrogen deposition and, in fact, we're fully prepared
12 to address those.

13 So we have reviewed the ERRATA and with the
14 change Ms. Vaccaro just read into the record we fully
15 support the ERRATA and urge your vote today.

16 CHAIRMAN WEISENMILLER: Thank you. Staff?

17 MR. BELL: Kevin Bell on behalf of staff.
18 First off, I'd like to thank the Committee for their
19 patience and their attention to the proceedings. Mr.
20 Sarvey and the applicant for their participation and
21 especially Ms. Vaccaro for shepherding along all the
22 different parties through the proceedings. Staff have
23 read and considered the PMPD and with the changes made
24 as to that scrivener's error we would submit it for
25 the Committee's vote and urge that you vote approval

1 of the Oakley Generating Station.

2 On the issue of nitrogen (inaudible) we have
3 staff available that can address that if the Committee
4 have any questions. I know that a concern has been
5 raised that the Commission staff and the Committee
6 have not responded to the concerns that have been
7 voiced by U.S. Fish and Wildlife Service and
8 Department of Fish and Game. However, I can say that
9 staff has addressed those concerns. We have a
10 respectful disagreement on certain issues but that
11 disagreement does not mean that the issue has not been
12 fully addressed and fully vetted through our
13 proceedings.

14 CHAIRMAN WEISENMILLER: Thank you. Mr.
15 Sarvey?

16 MR. SARVEY: Thank you, Chairman. I do have
17 some issues with the ERRATA. I also have some issues
18 with the decision. I don't intend to raise those
19 because I also raised those issues. There are a few
20 issues in the ERRATA. And there's one thing, and I
21 want to apologize to Mr. Galati because we talked
22 about this at the beginning before this Item came up.
23 I'm concerned AQSC-8 of the decision. It is not clear
24 on what the applicant's obligations are and part of
25 that is my fault because that particular condition was

1 something that Mr. Galati mentioned we had negotiated
2 that. The issue that's not clear is my agreement with
3 the applicant is that they will devote \$2.5 million to
4 the Bay Area Air Quality Management District to
5 implement clean air plans but the condition itself
6 doesn't spell that out and I wasn't concerned about it
7 until I had a conversation with staff a few minutes
8 ago and they seemed to have another feeling about that
9 condition so I'd like to air that out here if I could.
10 And if it's not something I can air out here, then so
11 be it, but I would like to talk about that a little
12 bit. Did you want me to proceed with my comments on
13 the ERRATA or would you like to deal with that issue?

14 CHAIRMAN WEISENMILLER: Let's hear all of
15 your comments.

16 MR. SARVEY: Okay. The first comment it
17 says page seven, add second paragraph under public
18 comment and it talks about me filing written comments
19 questioning whether the project has rapid start
20 capability but that's actually not true. It's not
21 public comment. First of all, I raised that issue in
22 my opening brief so I wouldn't consider that public
23 comment. I think it's mislabeled. And then the
24 evidence submitted by staff on page 4.1-85 of Exhibit
25 301 is that the OGS would provide short starting and

1 fast ramping power under the Cal ISO use of the terms.
2 That's not the same as being a rapid start project and
3 I think that the decision should clarify that.

4 COMMISSIONER PETERMAN: One moment, to
5 intervene Mr. Sarvey. Can you just say that last
6 point again of where that was? I was still noting
7 down the second—

8 MR. SARVEY: Oh, it's in the ERRATA. The
9 first item and they talk about adding a second
10 paragraph under public comment. And that's one issue
11 that I also want to raise here. In the future, when
12 we have a presiding member propose decision or final
13 decision, it should be sequentially numbered. The
14 decisions should go 1-628 there shouldn't be a land
15 use 1, a socioeconomic 1. It's very confusing to
16 discuss the PMPD under those circumstances. We had a
17 discussion at the Mariposa Project and I think that
18 the Committee kind of agreed with that so I just want
19 to put that forward for the future.

20 What I was saying here about Oakley was a
21 short start facility. It's a 30-90 minute start up
22 time. A rapid start facility is within 10 minutes.
23 And I think there's an important distinction there as
24 obviously if you have renewable generation ramping up
25 and down, you'd like to have that project come on

1 within 10 minutes, not 30 minutes. So it's an
2 important distinction and it's an important planning
3 distinction as well. So that's one comment that I
4 had.

5 Also, one the number one comment it says
6 that Sarvey further argues, and this is labeled as
7 public comment, that the Commission certification
8 process does not evaluate the potential economic
9 impact and the need. Well, I provided testimony and
10 briefing on the need for this project and the PMPD
11 comments that I talked about just merely to draw
12 attention that that testimony and briefing were
13 overlooked. So that's technically not public comment.

14 My testimony that I submitted in this
15 proceeding happens to be the same testimony that I
16 submitted at the PUC which was a critical factor in
17 the evaluation of the project so I think that it's
18 important to distinguish that.

19 And I gave you a handout today and I did
20 want to go over that briefly with you because it
21 supports what I'm saying that this project is not
22 needed. I have Attachment 1 Standard Planning
23 Assumptions for Systems Resource Plans. This is
24 currently the planning assumptions that we're using at
25 the PUC in this next round of procurement. And if you

1 look at page 17-49, it shows you that the planning
2 reserve margin from 2011-2020 does not go below 63
3 percent. That's a huge planning reserve margin. And
4 that includes all once through cooling retirements and
5 all the other known retirements but what's significant
6 and what's important about that is if you look on the
7 next page, it talks about what resources they included
8 as new resources that were probable. The Oakley
9 Generation Station is not even in there and we're
10 looking at planning reserve margins from 63 to 69
11 percent. My reading of the Warren-Alquist Act Section
12 1741 is that it states that the purpose of the
13 application proceeding is to ensure that any sites and
14 related facilities, certified provider-reliable supply
15 electrical energy at a level consistent with the need
16 for such energy and that's why I'm basing this project
17 should be rejected because it is not needed and under
18 Section 1741 you do have that authority. I understand
19 that there's been arguments that Senate Bill 110 takes
20 your need analysis out of your deliberations but I
21 disagree, I think Section 1741 provides you with that
22 authority. And under those circumstances and because
23 the project is not needed, I think you can save the
24 ratepayers \$1.5 billion and it'd be very important for
25 that to happen.

1 Now, on page 50 under agency and public
2 comments, it says talks about something that I've
3 argued all through this particular proceeding is that
4 this site is not a brown field site. This site is
5 currently a vineyard. It has a biological easement on
6 there and to argue that this is a brown field site
7 just doesn't add up. This clarification seems to say
8 that it isn't a brown field site, that it's previously
9 disturbed land. That I agree with. Brown field site
10 I don't agree with. Why that's important is that it's
11 one of the applicants objectives of the four
12 objectives they have is on the brown field site the
13 other was to rapid start technology. I don't think
14 they've satisfied either of those objectives.

15 And then my last issue, is on the nitrogen
16 disposition and I've been through a lot of proceedings
17 and when I reviewed the proceedings that I've been
18 through, like the Metcalf project, they had to give
19 116 acres of land and 15 acres of land on Codie Ridge
20 for nitrogen deposition emissions damage to
21 butterflies. Los Esteros was 40 acres of land and
22 they had to do many other things. And then in the
23 Pico Power Plant it was a minimum of 40 acres of land.
24 And then every time that this issue has come up
25 there's been significant mitigation involved but this

1 one only \$5,000 I believe is inadequate. I know staff
2 and applicant disagree with me but I think one
3 important thing is for this Commission to be
4 consistent and I believe they're being inconsistent in
5 this particular instance. And I believe U.S. Fish and
6 Wildlife, Department of Fish and Game and I had Dr.
7 Stuart Weiss provide testimony that this mitigation
8 was inadequate. He is probably the grandfather of
9 nitrogen deposition of butterfly impacts so those are my
10 comments. And I thank you.

11 CHAIRMAN WEISENMILLER: Let's go on and get
12 the other public comments. Sierra Club?

13 MR. MAINLAND: Good morning, Commissioners.
14 My name is Edward Mainland. I'm Co-Chair of the
15 Sierra Club's California Energy Climate Committee.
16 This is a group of some 90-100 volunteers up and down
17 the state concentrating primarily on reducing carbon
18 emissions by the cheapest and most expeditious means
19 possible.

20 Several comments on Oakley. Sierra Club is
21 not an intervener in this case but we were a party to
22 the CPUC proceeding. We opposed this project and we
23 were also a party joining a request to the CPUC to
24 reconsider and rehear what was an abrupt reversal of
25 their decision in December to approve the project. I

1 hope you have received a letter from Communities for
2 Better Environment the two of which Sierra Club joined
3 with regard to the endangered species and the
4 biological aspects of this project. I won't rehearse
5 what's in this letter but I hope you have received it
6 and I hope that you will consider it's arguments. I'd
7 like to associate Sierra Club with what Mr. Sarvey
8 just said about need. You do have the legal authority
9 to consider need in these cases as Mr. Sarvey pointed
10 out. It's quite clear from CEC's official load
11 forecast tables, for example those files December 3,
12 2010, in the CPUC's long-term procurement proceeding.
13 This shows the overall PG&E surplus generation
14 reaching some 69 percent by 2020 and the Oakley
15 project is going to heap up more unneeded fossil fuel
16 generation on this surplus. As you know, the normal
17 reserve margin for utilities is only 15-17 percent and
18 PG&E's latest current margin is I think nearly 40
19 percent. This glut of fossil fuel electrical
20 generation in the PG&E area has two affects, it's
21 going to create more obstacles for building clean,
22 renewable power which are sorely needed to meet state
23 targets for carbon emission reduction and it's going
24 to become another unadjusted burden on ratepayers.
25 So Sierra Club very strongly associates itself with

1 Mr. Sarvey's comments on need. Thank you very much.

2 CHAIRMAN WEISENMILLER: Thank you. We also
3 have Paul Seger.

4 MR. SEGER: Good morning. I was looking at
5 some of these pictures in here. They're really nice
6 that the children drew up. I don't see any pictures
7 of kids reaching down to grab a can with solar panels
8 on it and people in black suits kicking that can
9 further down the road every time they try to grab it.
10 The imaginations of the children, they want to see it
11 happen but this power plant is further kicking down
12 the options down the road. How often is PG&E going to
13 come back to the ratepayers and charge us for more
14 energy sources. And with that I urge you to not
15 approve Item 15 at this time. If you go back over the
16 transcripts from CPUC hearings, the project proponents
17 stated many times that they followed the rules and
18 should be rewarded for their integrity with approval
19 of CCGS. Regarding the—I personally have some qualms
20 with the integrity of the process. It felt blatantly
21 political as decisions were overturned in the CPUC.

22 Regarding the taking of the metal mark,
23 mitigation set forth by the PMPD sorely missed their
24 mark and are shockingly dismissive of the Federal
25 Endangered Species Act. I encourage the Commission to

1 revisit the U.S. FWS' April 28 Responsible Statement
2 of Mitigation recommendations before signing off on
3 the CCGS Application.

4 In that, they rightly remind the CEC and or
5 applicant, should obtain authorization for the
6 incidental take of the endangered Lange's Metalmark
7 pursuant to Section 7 and 10 A of the Federal
8 Endangered Species Act prior to adoption of final
9 environmental document.

10 I will draw your attention to a similar
11 decision made by the State of Massachusetts Agency to
12 dismiss appropriate mitigation for endangered species
13 in case Strahan v. Trudy Coxe, Secretary of
14 Massachusetts' Executive Office of Environmental
15 Affairs where the Courts found that the State Body was
16 compliant in the taking of protected species, even
17 though they were not the actual perpetrators of the
18 killing of the species. But their compliance was
19 found in the mere issuance of the permits. The
20 fishing practices were known and presented as such to
21 result in the killing of a species deemed endangered
22 by the U.S. FWD and the state was made to pay.

23 Once again I urge you to not approve the
24 CCGS until appropriate mitigation is agreed to. Thank
25 you for your time.

1 CHAIRMAN WEISENMILLER: Thank you. Would
2 you please ensure that we have your name spelled on
3 record for the Court Reporter.

4 MR. SEGER: S-E-G-E-R.

5 CHAIRMAN WEISENMILLER: Thank you.

6 MR. SEGER: Thank you.

7 CHAIRMAN WEISENMILLER: Eve Diamond?

8 MS. DIAMOND: Morning, Commissioners. My
9 name is Eve Diamond and I live in Oakley. I'm here
10 today representing Oakley Citizens for Responsible
11 Growth, aka OCRG. I've spoken out against this
12 project several times to the Oakley City Council, the
13 CPUC and the CEC, your good selves, regarding
14 unacceptable levels of emissions on the health issue.

15 However, my issues at this point regarding
16 the proposed power plant is that first of all, I don't
17 want the CEC to waste our tax dollars on a lawsuit
18 which you'll more than likely to lose anyway.

19 Secondly, today's agenda for you to consider
20 approval of this power plant. I don't believe that
21 you should. By passing-by approving the power plant
22 with the full knowledge that U.S. Fish and Wildlife
23 Service and the California Department of Fish and Game
24 have written testimony already submitted to the Courts
25 regarding the mitigations, regarding the Federal

1 Endangered Species Act and that approving it is as
2 tantamount to deliberately erasing three species from
3 the planet. Is that what you really want to be
4 remembered for? I urge you, nay I beg you not to
5 approve Item 15 today, preferably not at all.

6 The proposed mitigation that Rathbacker
7 Energy should pay \$5,000 a year after the fact is an
8 egregious and embarrassing amount because what good is
9 it if those species are already wiped out. No price
10 can be put upon the erasure of the life of a species.
11 That's absurd. If this is coming down to the erasure
12 of three species, the Lange's metalmark butterfly, the
13 Antioch Dunes Evening Primrose and the Contra Costa
14 Wallflower versus a few temporary jobs, you must
15 mitigation already submitted by the U.S. Fish and
16 Wildlife Service and the California Department of Fish
17 and Game.

18 And finally, I want to make comment while
19 we're on the subject of conservation. I want to make
20 a comment about your printed agenda here. There are
21 six pages that are printed on, there are 12 pages
22 altogether. If you printed them back-to-back, you'd
23 save 75 percent. If you printed them just on single
24 pages without the blank pages, you'd save 50 percent.
25 So this paper is not marked as recycled paper and it's

1 just a waste of paper as well. So there's no
2 conservation here in printing six page and using 12
3 pages to use it.

4 But the most important thing is I beg you
5 not to approve this power plant today. Thank you very
6 much for your time.

7 CHAIRMAN WEISENMILLER: Thank you for your
8 comments.

9 MS. DIAMOND: You're welcome.

10 CHAIRMAN WEISENMILLER: Dorothy?

11 MS. ROTHROCK: Hello, members. My name is
12 Dorothy Rothrock. I'm with the California
13 Manufacturers and Technology Association. And we're
14 becoming more aware of the project and some of the
15 issues around it. And one of the concerns that
16 manufacturers have in the state is that we pay very
17 high rates for electricity and we're very concerned
18 when plants are being proposed and built in excess of
19 what we need. It will simply add more cost to our
20 energy rates and if it's excessive it's not needed and
21 they shouldn't be built. In this case, my position is
22 neutral. I told you that I have a neutral position
23 here but I'm very concerned that the issues that I'm
24 becoming aware of regarding the environmental
25 mitigation as well as the need suggest that I should

1 step up and urge you to take whatever time you need to
2 make sure that this is a good project since even the
3 PUC says if it is needed, it's not for many years from
4 now. What is the hurry especially with all of these
5 outstanding issues. Thank you.

6 CHAIRMAN WEISENMILLER: Thank you.

7 COMMISSIONER DOUGLAS: I just thought I'd
8 make a brief comment on Dorothy's comments. Dorothy,
9 it's good to see you here as always. This issue came
10 up quite a bit in Mariposa as well, which is the next
11 agenda item, and the question to me is that it's true
12 that we have the ability to look at some aspects of
13 need and the question of a no action alternative and
14 some parts of the analysis that we do but with
15 restricting legislation was passed that prevented the
16 Energy Commission which from its inception had a role
17 of reviewing need and asking the questions about this
18 power plant, is it a good investment, is it needed in
19 the system. The legislation explicitly said the
20 Energy Commission cannot deny a project on basis of
21 need. At the same time, everywhere I go I hear that
22 question asked. I think it's helpful to hear your
23 comments and it's something that we should think
24 about.

25 MS. ROTHROCK: I wanted to make sure that my

1 comments aren't interpreted as my suggestion that you
2 should necessarily have that authority.

3 COMMISSIONER DOUGLAS: I understand.

4 MS. ROTHROCK: Okay. Good. But maybe to
5 the extent that that issue is important in determining
6 in how you handle your other responsibilities because
7 the extend that you have make a decision now opposed
8 to maybe you can make it later given that there is
9 more time before it is needed, that does start to
10 intersect in your jurisdiction and could make a
11 different in your determination.

12 COMMISSIONER DOUGLAS: And in the analysis
13 that we're starting be able to do, although it's kind
14 of far away in the South Coast Air District where you
15 ask with efficiency, with DG, with renewables, how
16 much natural gas generation do you need to keep the
17 system running. So that's the sort of thing that
18 falls really within the IEPR, within the planning
19 function. It's multiple years away and it's a broader
20 analysis than the project by project basis. Thank
21 you.

22 CHAIRMAN WEISENMILLER: I would note that
23 while we're not looking at need, the PUC is looking at
24 contract approval. I would note that the last time I
25 was at the PUC's Business Meeting, they actually went

1 into Executive Session on this project but it was
2 determined, obviously I did not participate in that
3 session so I have no idea what the outcome was, that's
4 at least something that's being actively considered
5 there. As a matter of policy, I'm trying to avoid the
6 agencies all duplicating each other. In terms of
7 business climate, I'm very concerned about giving
8 mixed signals between this Commission and the other
9 Commissioners so we're really working at trying to
10 coordinate things but again to come out with the right
11 decisions.

12 Any other speakers? Kourtney, do you want
13 to help us walk through these?

14 MS. VACCARO: That was quite a bit of
15 comment and quite a bit of information. I will do my
16 best and of course where the parties might have a
17 better answer, I'm sure the Commission would certainly
18 like to hear from them.

19 I hear most of what you heard today are very
20 thoughtful comments and considerations that have been
21 raised throughout this process. This is not the first
22 time that we are hearing these very thoughtful
23 comments with respect to the nitrogen deposition
24 issue, comments that people have raised with respect
25 to public health. But the evidence that was presented

1 to the Committee as well as the comments were very
2 carefully and thoughtfully considered by the
3 Committee. And the Committee was persuaded,
4 particularly with respect to the nitrogen deposition
5 issue, by the evidence that was presented by staff. On
6 balance, the Committee determined that staff's
7 evidence was the most persuasive and on that basis the
8 Committee determined that the mitigation issues
9 proposed by staff were adequate however the Committee
10 in no way thumbed its nose, disregarded or even
11 dismissed the concerns of the U.S. Fish and Wildlife
12 Service. There was extensive narrative in the
13 biological resources section of the PMPD that
14 addresses the concerns of Fish and Wildlife by both
15 staff and by the Committee's own interpretation of the
16 staff's responses to Fish and Wildlife. In addition,
17 to the extent that Fish and Wildlife Service's
18 recommended that a (inaudible) permit be obtained from
19 Fish and Wildlife Service. The Committee specifically
20 put in a provision, and this was sort of against what
21 was suggested by both staff and the applicant, to
22 ensure that if Fish and Wildlife Service determines
23 that (inaudible) permits are required that that should
24 happen through their process, outside of our process
25 but a condition of certification was added to the PMPD

1 to ensure that any such permit required is included
2 within the conditions of certification, that there's
3 verification and that this is wrapped into this
4 process. So I think that the PMPD does speak for
5 itself and it really does consider all of the things
6 that you have heard today. I think one comment that's
7 important that Mr. Sarvey raised, I think what the
8 Committee has intended and, I believe, has done
9 throughout this process has followed what the hallmark
10 of CEC proceedings are about. They've given the
11 parties and the public a full and fair opportunity to
12 participate and to be heard. I think that was done
13 here. The PMPD, throughout, addressed the evidence,
14 the abundant evidence, that was presented by Mr.
15 Sarvey on a number of topics; however, specifically on
16 the issue of the introduction where he's commenting
17 that what he's stating is put under the public
18 comments sections. The reason for that is that is
19 directly in response not to the evidence presented by
20 Mr. Sarvey but the comments, two separate sets of
21 comments that were presented specifically in direction
22 to the introduction section of the PMPD. All of his
23 other evidence, all of his other testimony is woven
24 throughout the PMPD and it's clearly reflected.

25 I think the issue of the brown field,

1 whether or not this is a brown field site, I think
2 it's an issue that's not really an issue. During
3 cross-examination, Mr. Sarvey made a point of
4 questioning CEC staff. You say this is a brown field
5 site, what do you mean by that? Staff said by that I
6 mean it's a previously disturbed site. It's sited in
7 the PMPD defining what staff intended when staff used
8 the term brown field, it's finding its way up into the
9 conversation again and again but I do believe that the
10 citation to the transcript, citation to the Q&A does
11 clarify in the PMPD and for the record how staff was
12 intending to use that definition notwithstanding Mr.
13 Sarvey's presentation of two particular definitions of
14 brown field that go beyond what staff defined.

15 I think other than that if there's questions
16 that you'd like me to answer, those were they points
17 that seemed to be most pertinent and worthy of
18 addressing at this point.

19 CHAIRMAN WEISENMILLER: One other question
20 is that Mr. Sarvey talked about the difference between
21 rapid start and quick start. Do you have a comment on
22 that?

23 MS. VACCARO: Well I think my comment is
24 best stated by the Committee in the ERRATA where we
25 specifically call out that throughout the document,

1 staff and the applicant provided evidence explaining
2 that this is designed to be a rapid start facility.
3 And throughout the document, in the various sections,
4 that cited the evidence is cited for that. The fact
5 that Mr. Sarvey disputes that is I think is a place
6 where reasonable minds might differ and perhaps this
7 is a semantic issue but I think we've certainly called
8 to the executive summary, project description, project
9 alternatives, air quality, power efficiency sections
10 just as examples within the PMPD where those terms are
11 discussed and then we cite to the very specific
12 evidence that supports those statements.

13 CHAIRMAN WEISENMILLER: Thank you.

14 Applicant, do you have any further comments?

15 MR. GALATI: Yes, I'd like to address a
16 couple of things. The first thing that Mr. Sarvey
17 raised with respect to AQSC8, I wanted to make sure
18 that it's clear on the record how we understand that
19 condition works. What we were trying to do originally
20 with that particular condition was to fund real air
21 quality improvement programs with a preference that
22 those air quality improvement programs be used in the
23 City of Oakley first and expanded outward, and
24 expanded outward and expanded outward until the
25 appropriate emission reductions were obtained. It

1 also allowed us, in that particular set of conditions,
2 to buy traditional ERCs and the agreement that we had
3 with Mr. Sarvey, because he didn't know where those
4 ERCs were coming from or how they would result in a
5 net air quality real-time measureable benefit, we got
6 rid of that requirement and agreed to just the funding
7 opposed to having the option of buying a credit that
8 is already created, which is far easier for us to do.

9 The question became how much money goes into
10 that fund. The amount has never been of any dispute.
11 It is the amount necessary to get particular 63.88
12 tons, I believe, of NOx and 12.55 tons of PM10 PM2.5.
13 A number was derived, \$32,000 or so, per ton to give
14 to the Bay Area Clean Air Foundation for them to
15 actually implement the program. When you multiply
16 those numbers together, it comes almost to \$2.5
17 million, not quite, there's some administration fees
18 but our understanding is how that works is after that
19 ATC is issued, we provide a check for \$500,000 to get
20 the program started. Then, as the Bay Area comes up
21 with specific programs and projects, we fund those as
22 we go such that the entire emission reductions are
23 obtained prior to first turbine fire. So the numbers
24 may not work right but the amount of reduction for
25 each pollutant will be accounted for and that's really

1 what needs to be done. I think that the issue of
2 whether it says you shall give \$2.5 million is
3 irrelevant to the operation of the condition. The
4 condition says you shall fund and make sure that blank
5 amount, 63.88 tons of NOx reductions are obtained, and
6 there's a dollar amount per ton. I think that that
7 accomplishes the goal of what we all intended and we
8 gave up the right and the ease of going out and buying
9 ERCs in order to get real McCoy improvements.

10 Second issue that I'd like to address again
11 is the nitrogen impact. I think we have to put this
12 in perspective, and I don't mean to be flip. But we
13 are talking about three pounds of an actual nitrogen
14 fertilizer, like Scott's Turf Builder, spread over
15 14.35 acres in a year. That's a few pellets in this
16 room. That's what we're talking about as the worst
17 possible case scenario modeling impact and the
18 applicant's mitigation has been funded as if one
19 pellet would have been an impact as opposed to a few
20 pellets. The difference between this project and if
21 the interveners and we had had this discussion in
22 workshops and evidentiary hearings and you can explore
23 this and be participating in that, what you would
24 understand is the impacts to the butterfly are on a
25 piece of property already preserved. You can't go buy

1 more land for that. So the money is being spent at
2 that preserve, for those impacts, given to U.S. Fish
3 and Wildlife Service through a third party who's going
4 to work with U.S. Fish and Wildlife Services
5 directions, implement whatever U.S. Fish and Wildlife
6 Services chooses to implement. So the conversation
7 measures that we're talking about - grazing, weeds,
8 enhancement, cultivating larvae. All of those can be
9 part of this mitigation fund which other applicants
10 are contributing to as well. This is completely
11 different than Metcalf, Los Medanos and Pico, which I
12 worked on Pico, where the impacts were to private
13 property where there were these endangered species and
14 there wasn't any land being set aside for its
15 management. So first you have to get the land and
16 then you manage it right. Here, there's no contention
17 and no evidence on the record that there's any private
18 land with this butterfly on it that needs to be
19 preserved. It's being preserved. What needs to
20 happen is the enhancements measures of that particular
21 location needs to be increased. And that's how the
22 mitigation has been identified and our percentage of
23 it is our percentage of the total impact that staff
24 and others have modeled and assumed that is already
25 existing. It's not just our percentage of what the

1 power plants contributed, it's our percentage of what
2 everything is contributing, and that is the fairest
3 way to calculate our contribution to cumulative
4 impact. Very, very different. And in our brief, I
5 cite cases directly on point. Very different than
6 what is used for a technique and we are mitigating
7 cumulating impact. We agreed to do that and we think
8 that that is fair. But it certainly has been
9 addressed, it's been addressed thoroughly, it's been
10 addressed fairly. And there's no comparison to these
11 projects, to those other three projects, who's impacts
12 were a magnitude higher than the cumulative impacts
13 from the projects near the Antioch Dunes. That's in
14 the record. There's sufficient evidence here for you
15 to go forward and we urge your vote.

16 CHAIRMAN WEISENMILLER: Staff?

17 MR. BELL: Nothing further.

18 CHAIRMAN WEISENMILLER: Mr. Sarvey?

19 MR. SARVEY: Thank you. First of all, I'd
20 like to say Contra Costa Generating Station did do the
21 right thing in adopting AQSC8. I congratulate them
22 for that. That was a good move on their part. ERCs
23 really don't benefit anybody. They're use some
24 programs that will be implemented by the Bar Area Air
25 Quality Management District and I think that this is a

1 model of how PM impacts and SO2 impacts should be
2 mitigated and I congratulate them for that.

3 As far as the nitrogen deposition, basically
4 with what's been argued is that it's a proportional
5 amount that they're contributing to their impact in
6 this particular method that they're using to mitigate
7 this but the problem here is that the butterfly's
8 population is dwindling. It's down to 25 butterflies.
9 Obviously the mitigation that is being used now is not
10 working so you can't use a proportionality argument
11 with a mitigation measure that's not working. U.S.
12 Fish and Wildlife and Department of Fish and Game have
13 laid out specific actions that they want taken and
14 there's nothing in the record that says that might be
15 cheaper than the \$500,000 we don't know. But when the
16 experts are recommending specific actions and staff is
17 not deferring to them, I believe that that is a
18 problem and that the experts should be deferred to and
19 that's U.S. Fish and Wildlife and Department of Fish
20 and Game.

21 And I wanted to say one more thing about the
22 need issue. SB-10 was developed during the time when,
23 supposedly, merchant generators were going to be
24 putting their cash money on the line to develop
25 projects. In this particular case, that's not the

1 case at all. Ratepayers are putting their money on
2 the line. SB-10 does not apply to this project. This
3 project will be owned by PG&E and I believe SB-10 does
4 not apply here and doesn't apply in any situation
5 where a merchant generator or a utility is guaranteed
6 their investment back. So I would argue that the
7 direction that the legislature gave you in 1999 does
8 not apply here. That's all I have to say. Thank you.

9 CHAIRMAN WEISENMILLER: I was actually going
10 to ask two more questions and then go back to you.
11 Mr. Levy, would you comment on the 1741 and the SB-10
12 in terms of giving us a legal opinion on it?

13 MR. LEVY: Generally speaking, Commissioner
14 Douglas it correct. The need analysis is relevant to
15 CEQA and overrides CEQA alternatives and LORs
16 override. There's nothing in Warren-Alquist that
17 prohibits you from certifying a facility if you
18 determine that it's not needed, should you make that
19 determination. So it's a reverse analysis that's
20 being pushed on the Commission at this particular
21 juncture.

22 CHAIRMAN WEISENMILLER: Okay. And Ms. Jones
23 can you comment on the two-sided copying question?

24 MS. JONES: I'd be happy to. We have set
25 all of our printers to double sided copying,

1 recognizing the issue that was raised by the Oakley
2 Citizens for Responsible Growth. This was part of a
3 program where we conduct where employees can make
4 suggestions to improve efficiency or cut costs. They
5 get a portion of the savings for a year. And this was
6 implemented just a few weeks ago.

7 COMMISSIONER DOUGLAS: So I can't resist
8 pointing out that my agenda is one two pages, I don't
9 know how other agendas were not.

10 MS. KALLMEYN: That's my fault. I neglected
11 to push the button for double-sided copies when I was
12 making some extras for the table outside the room
13 here. When I came back to pick them up and realized
14 what had happened, I didn't want to waste more paper
15 re-doing the job so I put them out as is.

16 COMMISSIONER PETERMAN: Well, I guess it's a
17 good opportunity to at least talk about the work we're
18 doing within the Commission on efficiency. I did have
19 a follow up question for—

20 CHAIRMAN WEISENMILLER: I'm sorry.
21 Kourtney, did you want to say anything else?

22 MS. VACCARO: Well, I did want to make one
23 important point of clarification. And I think that
24 it's stated in the errata to the PMPD, it's also clear
25 by looking at the docket record for this case.

1 California Department of Fish and Game did submit a
2 comment letter. They submitted a comment letter on
3 the preliminary staff assessment. It's dated February
4 2011. For whatever reason it did not surface within
5 the agency until April 2011, after contact between CEC
6 staff and Fish and Game Staff. This is explained in
7 the record.

8 Fish and Game did not repeat or echo the
9 comments that were made by Fish and Wildlife Service
10 rather California Department of Fish and Game
11 recommend and urged CEC to ensure that its analysis of
12 the mitigation measures, particularly the dollar
13 amount, would in fact mitigate for the impacts to the
14 three species at the Antioch Dunes NWR. That's
15 exactly what staff did. Committee considered exactly
16 what Fish and Game requested in addition to
17 considering what U.S. Fish and Wildlife requested but
18 they did not make the same exact requests of the
19 Energy Commission. But at the end of the day what
20 they both did urge was very careful consideration by
21 the staff and this Committee before moving forward
22 with this PMPD - that mitigation is in place, that
23 mitigation be adequate and, in fact, that U.S. Fish
24 and Wildlife Service plays a part in the
25 implementation of those mitigation measures. That's

1 exactly what the PMPD and the Conditions of
2 Certification do.

3 CHAIRMAN WEISENMILLER: Thank you.

4 COMMISSIONER PETERMAN: Ms. Vaccaro and also
5 to Mr. Sarvey, regarding ACSC-8, do we feel then that
6 the PMPD errata reflects the intention of that?

7 MS. VACCARO: Well, I certainly can't speak
8 for Mr. Sarvey and the applicant, they are the two
9 that reached the agreement on the language of that
10 condition. That language is what was put in the PMPD.
11 Mr. Sarvey is certainly raising an important points
12 not about what his perception was of what that
13 condition was supposed to do but I know what the
14 Committee did was use the language that was proposed
15 by the parties jointly pursuant to stipulation.

16 COMMISSIONER PETERMAN: Mr. Sarvey?

17 MR. SARVEY: I believe that the Committee
18 adopted it as we proposed it. And it was my mistake
19 not to insist that the \$2.5 million was included in
20 that because that was our agreement. I don't know
21 that if anything can be done about that but I don't
22 believe the Committee acted appropriately. They
23 adopted the Condition of Certification exactly as
24 proposed. I had conversations with Mr. Galati and he
25 said don't worry about the \$2.5 million. He said that

1 the 63.8 tons of PM, the 22.5 tons of Sox times the
2 \$32,750 adds up to the \$2.5 million so I didn't need
3 that number in the record. My mistake but that was
4 the intent of our agreement as I see it.

5 MR. GALATI: Using the term, 2.5 roughly, I
6 think it's 2.4 something else and that's what it adds
7 up to. So, if the emission productions are created
8 this way, which they can only be now from the
9 conditions, we can't get ERCs, and fixed amount per
10 ton, that's the money that will be spent. I will tell
11 you that it certainly isn't—I don't believe that it's
12 a relevant mistake if that was a mistake. These were
13 circulated between the parties, this particular
14 condition was circulated between the parties, and then
15 we all jointly signed it, including Mr. Sarvey. I
16 don't think that the number \$2.5 million needs to be
17 in there to ensure that these emission reductions are
18 actually created in the way that we all intended.

19 COMMISSIONER PETERMAN: Thank you.

20 CHAIRMAN WEISENMILLER: Commissioners, any
21 other questions or comments?

22 COMMISSIONER PETERMAN: I'll offer a few
23 comments. I was on the Committee for this case with
24 Presiding Member Vice Chair Boyd. Unfortunately, Vice
25 Chair Boyd cannot be with us today due to a death in

1 the family but he expresses his regrets for not being
2 able to participate and I'm sure that he would have
3 appreciated being here, hearing all the comments from
4 the stakeholders. I'll try to offer a few comments on
5 the Committee's behalf.

6 First, thank you very much to all the
7 stakeholders that have participated in this process.
8 Particular thanks to Hearing Officer Vaccaro who has
9 done an excellent job in terms, as noted by staff
10 attorney, shepherding everyone in the process and
11 providing clarification information to the Committee.
12 Also thank you to the applicant, staff, intervener
13 Sarvey for the evidence that you provided for the
14 record. Thank you also to our sister agencies, to the
15 public who attended a number of the meetings that we
16 had. I see some familiar faces from Oakley and I'm
17 glad to have you back with us and thank you for making
18 the journey to Sacramento. Also, I don't know if any
19 city officials are here from Oakley and if so, this is
20 an opportunity for you to speak as well. Well, then
21 we'll just say thank you to the City of Oakley for
22 being a good host for us when we were down there
23 visiting site as well as to hold informational
24 meetings.

25 As Ms. Vaccaro noted, the Committee

1 thoroughly and deliberately considered all of the
2 evidence that was brought into the record. Again, as
3 noted, by the number of the comments raised today were
4 in the written record and I encourage you all to read
5 the PMPD to see a full history of the case. We as the
6 Committee had the privilege to be able to sit through
7 a lot of hearings and read the material over time and
8 in order to develop our decision. I think enough has
9 been said about the nitrogen deposition but as noted
10 our PMPD does not preclude further action by U.S. Fish
11 and Wildlife. And so—one final comment about timing.
12 We'll note again that this proceeding took
13 approximately two years and a longer time period than
14 you normally have for this type of case and so we did
15 spend sufficient time, as I see it, going over the
16 material but once again thank you for participating in
17 our process as well as for participating in the Public
18 Utilities Commission process because that helps add to
19 our understanding and to the record. And so if there
20 are no further questions, I'd like to move this Item,
21 in particular, let me read it, I'd like to move for
22 the adoption of the presiding member's proposed
23 decision for the Oakley Generating Station project and
24 move for the adoption of the Errata and the amendment
25 to the errata.

1 COMMISSIONER DOUGLAS: Second.

2 CHAIRMAN WEISENMILLER: All in favor?

3 (Ayes.) This passed unanimously. Thank

4 you.

5 CHAIRMAN WEISENMILLER: Thank you.

6 COMMISSIONER PETERMAN: Oh, I also wanted to

7 say thanks to the public advisor. Thank you.

8 MR. LAMBERG: Just a quick word from the

9 applicant. I wanted to thank the Committee for all of

10 their hard work on this. Wanted to thank especially

11 Kevin Bell, counselor at the CEC, who was the kind of

12 glue that held it all together. Want to thank our

13 first project manager Joe Douglas who fielded our AFC

14 and got us through the first round of data request. I

15 wanted to thank Felicia Miller for her work on this

16 project and especially wanted to thank Pierre

17 Martinez, our third and final project manager, who

18 really pulled the heavy lifting and really did an

19 absolute outstanding job. I wanted to thank

20 Commissioner Boyd, Commissioner Peterman for all of

21 their efforts and the time they spent. I wanted to

22 thank Kourtney Vaccaro. I wanted to thank intervener

23 Sarvey. I actually think that we have a better

24 project due to his efforts and his input into this

25 process so we certainly appreciate his participation.

1 I also want to point out that something that's been
2 missed in all of this. This is a project that employs
3 brand new state of the art general electric rapid
4 response Fast Start technology specifically designed
5 to address renewable integrations. It's the first
6 time, to our knowledge, that this technology is going
7 to be implemented anywhere in the world so it gives
8 California an opportunity to lead in that front. It's
9 a project, as Commissioner Peterman saw, in the public
10 hearings in Oakley, enjoys a tremendous amount of
11 public support by the over 50 comments on the record
12 by various members of the community in support of this
13 project. The project will create over 700 union jobs
14 and the project was approved by the California Public
15 Utilities Commission in December of this year.

16 To address some of the concerns that I've
17 heard about greenhouse gases by the CEC's own analysis
18 as stated in the final staff assessment. When this
19 project comes online it hopes to reduce greenhouse
20 gases throughout the state of California. To address
21 some of the comments by MTA earlier, this project
22 represents the cleanest and most cost effective gas
23 fire technology in the state. The superior heat rate
24 will actually result in reduced cost to consumers for
25 their electricity. So with that, I'd like to thank

1 everyone who participated in this and I'll let you get
2 on to your next item.

3 COMMISSIONER PETERMAN: Thank you.

4 CHAIRMAN WEISENMILLER: Next Item is Item
5 16. Mariposa Energy Project 09-AFC-3. And errata.
6 Possible adoption of the Presiding Member's Proposed
7 Decision on the Mariposa Energy Project, and Errata.
8 The project is a simple-cycle peaking facility with a
9 generating capacity of 200 megawatts in northeastern
10 Alameda County. Ken Celli?

11 MR. CELLI: Good afternoon. I'm overhear
12 Commissioner. Good afternoon, Chairman Weisenmiller
13 and Commissioner Douglas, Commissioner Peterman.
14 Kenneth Celli on behalf of the committee designated to
15 conduct proceedings on the Mariposa Energy Project.

16 Before I begin I wanted to give you a little
17 history of the composition of the Committee. The
18 Committee began as Commissioner Levin as the presiding
19 member and Commissioner Byron as the associate member.
20 When Commissioner Levin left, Commissioner Byron took
21 over as the presiding member and Commissioner
22 Weisenmiller took over as the associate member. Then
23 when Commissioner Weisenmiller was between
24 appointments, Commissioner Douglas took over as the
25 associate with Byron still serving as the presiding

1 member. And then when presiding member Bryon left the
2 Committee, Commissioner Douglas took over as the
3 presiding member as the sole member of the Committee
4 and that's the sole member of the Committee at this
5 time.

6 Now, PMPD reflects the careful consideration
7 of all of the party's evidence and the public
8 comments. The Committee recommends and the PMPD
9 recommends that the Energy Commission grants
10 certification to the—because the Mariposa Energy
11 Project will be consistent with all laws, ordinances,
12 regulations and standards and because there are no
13 significant impacts to either the environment or
14 public health pursuant to CEQA. I want to direct your
15 attention to this map that just came up on your screen
16 just to place it. The project's located in
17 northeastern Alameda County. You can see the grey
18 lines that differentiae the counties. The Contra
19 Costa line is a mile-and-a-half north of the star that
20 shows as the project site. The Alameda county line is
21 two-and-a-half miles to the right or the east of the
22 star. The town of Livermore, in the bottom left hand
23 corner is seven miles west of the project and the town
24 of Tracey to the east of the project is also seven
25 miles away. To the north of the project, in Contra

1 Costa County is the town of Byron which is pretty
2 small and not big enough to make the map but we did
3 show the Byron airport. The Byron airport is two-and-
4 a-half miles, 2.75 miles, north of the project. And
5 the center line of the nearest approach of the runway
6 runs approximately one mile to the east of the
7 Mariposa project. So essentially you approach at
8 this, if you can see my cursor, you approach at this
9 direction and it would pass a mile to the east of the
10 project.

11 The facility itself is southeast of the
12 intersection of Bruhns Road and Kelso Road. The
13 Mariposa project itself would take up 10 acres of a
14 158 acre parcel, known at the Lee property. Also on
15 the project, and you can see a little picture of it
16 there, is the Byron cogen power plant. It takes up
17 two acres of the 158 acres. The remainder of the 158
18 acres is used as non-irrigated grazing land.

19 Now this parcel is subject to a land
20 conservation agreement with Alameda County and several
21 interveners argue that the Mariposa Energy Project was
22 inconsistent with the agricultural uses stated in the
23 contract however the Committee determined that the
24 contract is not a LORs, the contract is a contract
25 between the landowner and the county. It is

1 enforceable by adjacent landowners. And the
2 Williamson Act contractors within the Alameda County.
3 The Energy Commission does not really have a role,
4 just does not have a role, within the enforcement of
5 this project. The Committee took substantial evidence
6 from Alameda County who testified for about two plus
7 hours along with evidence from the Department of
8 Conservation which oversees the Williamson Act. The
9 applicant staff put on expert witnesses in support of
10 the presiding members decision that the Mariposa
11 Energy Project would not conflict with the
12 requirements of the Williamson Act itself. The
13 Mariposa Project site—the Mariposa Energy Project
14 itself would be a natural gas fired simple-cycle
15 peaker with a 200 megawatt generated capacity. The
16 applicant stated that they projected the project would
17 run about 600 hours per year, however the license
18 would allow it run up to 4,000 hours per year. The
19 primary equipment are four GE LM6000 PC Sprint gas
20 fired combustion turbine generators and associated
21 equipment. There is a power purchase agreement in
22 place between the applicant and PG&E. The Mariposa
23 Energy Project connects to the grid via a 230 kV
24 transmission line at the Kelso substation which is
25 north by about seven-tenths of a mile away. The

1 project—the natural gas will be conveyed via a 580
2 foot, eight-inch gas pipeline, which connects with
3 PG&E line 002. The Committee took evidence on line
4 002 with regard to its condition and the determination
5 of the Committee is that the Mariposa Energy Project
6 would have no significant impacts on line 002. As to
7 water, the service that processes water would be raw
8 fresh water from the Byron Bethany Irrigation
9 District, a new pump station and a 1.8 mile water
10 pipeline that would run east of Bruhns Road, which is
11 the road in the upper corner of the slide, at 600
12 hours a year which is the applicant's projection of
13 how much this project would run. The Mariposa Energy
14 Project would use 34.8 acre feet per year of water, at
15 the full 4,000 hours the project would use 187 acre
16 feet per year. Byron Bethany Irrigation District
17 confirmed their ability to supply this water and the
18 applicant will fund a water conservation program
19 within the Byron Bethany Irrigation District by
20 condition and conservation measures would conserve an
21 amount equal to Mariposa Energy Project's use of the
22 water thus resulting in a zero net use, zero net
23 consumption of water.

24 There were seven interveners in this case.

25 Robert Sarvey, an individual from Tracey, California,

1 the Mountain House Community Service District, Rajesh
2 Dighe, an individual representing himself from
3 Mountain House, the California Pilot's Association
4 represented by Andy Wilson, Jass Singh an individual
5 from Mountain House Community, the Sierra Club of
6 California, Mr. Mainland was here and Mr. Carlton and
7 then Rob Simpson who's represented by April Sommer.

8 Mr. Sarvey raised issues—and I have to say
9 that Mr. Sarvey contributed—all of the interveners put
10 a lot of effort into this case and we went a long time
11 with long hours but Mr. Sarvey put in—went above and
12 beyond by helping some of the less experienced
13 interveners to which we were grateful and he
14 contributed greatly to this process. Mr. Sarvey
15 issues that he raised and put into evidence with
16 regard to land use, air quality, hazardous materials,
17 alternatives, worker safety and fire protection.

18 Mountain House Community Service Distract
19 put in some evidence with regard to the socioeconomic
20 with regard to the housing values in Mountain House
21 and also participated in discussions with regard to
22 fire safety.

23 Rajesh Dighe put in evidence in regard to
24 socioeconomics and specifically on the economic
25 condition of Mountain House we viewed video. Mountain

1 House, I should tell you, has the distinction of being
2 one of the most, if not the most, underwater
3 residential areas in the United States. And we took
4 in evidence to show that the average property value
5 has dropped since 2003 some 57 percent in Mountain
6 House. So that was the gist of Mr. Dighe's evidence.

7 The California Pilot's Association put in
8 evidence obviously on aviation having to do with
9 traffic and transportation and land use.

10 Mr. Singh put in evidence with regard to
11 socioeconomics on the question of economic justice.
12 In the end, the Committee determined that the Mountain
13 House Community was for our purposes of analysis an EJ
14 community in terms of reaching the threshold of being
15 a minority.

16 Sierra Club of California put in evidence
17 with regard to greenhouse gases and alternatives,
18 largely on the question of need or really to be fair,
19 their position would be the lack of need for the
20 Mariposa Energy Project.

21 And then Rob Simpson entered comments mostly
22 to do with socioeconomics and land use.

23 As usual the public was given a full and
24 complete opportunity to participate at every stage of
25 these proceedings and the Committee received a high

1 volume of comments from Mountain House residents that
2 participated, quite a bit. Not all of the Mountain
3 House comments were opposed to the project but the
4 overwhelming majority were, mostly having to do with
5 fear that their already diminished property values
6 would go down further. Also fear on health impacts
7 due to emissions. And lots of recommendations that
8 the project should be solar, notwithstanding the fact
9 that this is a peaker to support intermittency of
10 solar and wind in the area. And then we received a
11 lot of—several comments from pilots talking about
12 their concern of the proximity of the Mariposa Energy
13 Project to the Byron Airport. I should tell you that
14 we received—we had a stellar panel of experts on
15 aviation and among them were test pilots who flew back
16 and forth through plumes, power plant plumes, and
17 testified that there would be no impact. In fact,
18 they testified it was equivalent to driving over a 2x6
19 on the freeway at 60 miles an hour.

20 So with that the PMPD addressed and
21 concerned all comments, all public comments and party
22 comments. The Committee recommends that the Energy
23 Commission adopt the PMPD on the MEP, the Mariposa
24 Energy Project, with the errata dated 5/17/11 which
25 has been served to all parties. The errata

1 incorporates the parties and the public comments and
2 clarification on the record. With that the matter is
3 submitted. I'm available to answer any questions with
4 regard to the PMPD, otherwise the parties are here to
5 address the Commission.

6 CHAIRMAN WEISENMILLER: Commissioners, any
7 questions or comments for—

8 COMMISSIONER DOUGLAS: I'll hold comments
9 until I've heard from the parties and the public.

10 CHAIRMAN WEISENMILLER: Okay. Good.
11 Applicant?

12 MR. WHEATLAND: Good afternoon. I'm still
13 Greg Wheatland and with me is Chris Curry. I would
14 just like to add briefly to Mr. Celli's comments. The
15 applicant, of course, supports the PMPD as modified by
16 the errata. Mr. Celli has recited to you the
17 interveners. In this proceeding I think it's also
18 worth noting that on this case the applicant and the
19 staff were in complete agreement with respect to all
20 of the conditions of certification, there were no
21 disputes between the applicant and the staff in this
22 proceeding.

23 In addition this project enjoyed the support
24 of Alameda County, the jurisdiction in which it is
25 located. It also enjoyed the support of Contra Costa

1 County through its Board of Supervisors of the
2 neighboring county. I had also received the support of
3 the San Joaquin Valley Air Pollution Control District
4 with which the applicant entered into a specific
5 voluntary mitigation agreement to address air quality
6 concerns within San Joaquin County. And I've also
7 enjoyed the support with respect to the various
8 agencies that commented on this project with respect
9 to their individual jurisdictions to recommend to the
10 Commission that the project was consistent with the
11 LORs of the jurisdiction of those agencies, including
12 the Department of Conservation, the Federal Aviation
13 Administration, BVID, Alameda County and U.S. Fish and
14 Wildlife Service which I would like to note in closing
15 that we yesterday received the biological opinion from
16 the U.S. Fish and Wildlife Service with respect to
17 this project. That opinion letter has been docketed
18 and provided to the parties.

19 So we'd like to thank you for the
20 consideration of this item and Mr. Curry and I, and
21 others that are here with us today are available to
22 answer any questions.

23 CHAIRMAN WEISENMILLER: Thank you. Staff?

24 MS. WILLIS: Thank you. Good afternoon. My
25 name is Kerry Willis. I'm Senior Staff Counsel and

1 with me is Craig Hoffman who is the project manager.
2 Staff wishes to thank the Committee. We have no
3 additional comments on the PMPD or the errata. We
4 appreciated the cooperation with the applicant and
5 input from the many interveners and members of the
6 public who participated throughout this proceeding.
7 Several Conditions of Certification were changed for
8 the better based on intervener suggestions and
9 although we haven't seen any new issues raised in any
10 of the PMPD comments that haven't been already
11 previously addressed either in the supplemental staff
12 assessment, through the many public workshops or the
13 three days and nights we held hearings, and the PMPD
14 comment hearing, we do have staff available and
15 presently available in the room or on the phone if
16 there are any further questions.

17 CHAIRMAN WEISENMILLER: Thank you. Mr.
18 Sarvey?

19 MR. SARVEY: Thank you, Chairman. First I
20 would like to say that the applicant was very
21 agreeable and supplied very good food.

22 (LAUGHTER.)

23 So I was very happy about that. I wanted to
24 congratulate them about that. Unfortunately, I do
25 disagree with the PMPD. It has no reflection on the

1 applicant. I also want to—I appreciate staff for
2 adopting a condition that outlaws natural gas blows
3 from here on in all CEC certified projects which is
4 very, very appreciated.

5 That being said, I do believe that the
6 applicant provided two sites in the alternatives
7 analysis. Those sites were right next to the project.
8 I believe that impermissibly narrow site selection and
9 I take that from the Chula Vista decision where they
10 actually had three sites. There weren't all right
11 next to each other but all the sites were the same.

12 The other issues in alternatives were that
13 the applicant defined the project objective as using
14 natural gas which is once again impermissibly narrow.
15 You can't consider other alternatives if one of your
16 project objectives is use of natural gas so I think
17 both of those things in terms of alternatives, the
18 decision is defective in that.

19 We had quite a discussion on pipeline safety
20 and I was the one that raised it. I had specific
21 reasons for raising it. You'll note with my card, I
22 provided some nice pictures. I hope you got them. I
23 wanted to explain this picture to you, and I think
24 it's something that the Commission needs to address,
25 this particular picture depicts a fallen down fence.

1 That fence was erected to protect line 002, line 401
2 and a Standard Oil Pacific Pipeline that runs there
3 through the same corridor 18 inches. Now this
4 happened because the City of Tracy wanted to put in a
5 huge sports park over these lines which I strangely
6 objected to. PG&E, in this particular instance, asked
7 for a first and only pipeline waiver where instead of
8 replacing this pipeline they were going to do
9 additional mitigation measures to make sure that
10 everything was safe. One of those mitigation measure
11 was this fence. And as you can see this fence fell
12 down. But that isn't the important part. The
13 important part, if you look closely, you'll see large
14 earth mover tracks going over these pipelines. One of
15 the issues of why this fence is there is because they
16 didn't know what the depth of these pipelines were.
17 And I'm going to urge the Commission to follow up on
18 this because if you see in the background, that's your
19 Tracy peaker plant. And this particular pipeline was
20 run over by earth movers, a fence was erected to stop
21 it but it did not work. That's one of the reasons
22 that PG&E ultimately rescinded their SU-58 first
23 pipeline waiver in the state of California because of
24 this picture right here. And they agreed to replace
25 this pipeline and examine the other ones. But since

1 the project didn't go forward, that hasn't been done.
2 So I urge the Commission to follow up and make sure
3 that this particular area of the pipeline is safe.
4 That's why I raised the whole issue. After that came
5 San Bruno and suddenly it became a big issue
6 everywhere but it still is an issue.

7 I want to talk for a minute with the
8 compliance with the Williamson Act here and I think
9 the PMPD has got it totally wrong. There's a land
10 conservation agreement, C89-1195 Exhibit Number 12.
11 In that land conservation act, Alameda County had a
12 public hearing limited to uses on that Williamson Act
13 property to two things, one you could have a
14 cogeneration distillation or you could have cattle
15 breeding. That's all you could have on that property.
16 Now the PMPD takes the position that the Williamson
17 Act somehow—that that contract is an agreement between
18 the land owner and the County of Alameda and it
19 doesn't provide an restrictions under the Williamson
20 Act. And that's absolutely wrong. And then the other
21 issue is that Alameda County's Agricultural Preserves
22 Objective Uniform Rules and Procedures, which governs
23 their Williamson Act property, says that you can't
24 have an electrical facility only if it's an accessory
25 to other permitted uses on the property. That again,

1 once again they had a public hearing about the
2 agricultural objectives. They made a decision. They
3 said we're limiting power plants in this area on this
4 Williamson Act properties and those are the overriding
5 concerns not the PMPD—the PMPD rests on the fact that
6 the Williamson Act says that electrical facilities are
7 compatible and I'm not sure that's even true because
8 if you look at the ongoing litigation on the large
9 solar facilities that's going on on Williamson Act
10 property, I don't think that issue is settled at all.
11 I think that the PMPD is dead wrong there.

12 The other issue is this area in 2000, the
13 voters of Alameda County saw fit to pass Measure D.
14 Measure D is the open space initiative, agricultural
15 preserve. Alameda County has interpreted that quite
16 differently from what the drafters of Measure D had
17 intended. And in fact I presented Dick Schneider, who
18 was one of the authors of Measure D, and he explained
19 the intent of it. I believe that there's no way you
20 can say that the Mariposa project is compatible with
21 Measure D because Measure D is for saving agricultural
22 space and open space so I don't see any way that the
23 PMPD could come to that conclusion. I think it's
24 wrong.

25 The other issue, and that's in the errata, I

1 commented that a NOTAM is required by Conditions of
2 Certification Trans Eight and that is the mitigation
3 to let the pilots know don't fly over this project.
4 PMPD does not require that that NOTAM come in place.
5 It requires that the applicant to apply for it. But
6 if the applicant does not get that done, then there is
7 not mitigation for flying over that plume. And I
8 believe that's something that should be addressed.
9 And I also think that there's been some discussion
10 here already by Mr. Celli that these particular pilots
11 flew directly over this plume down south. Well if you
12 read their report, they flew 500 feet to the side of
13 the plume. They never flew directly over the plume.
14 You have an opportunity to ask about it. I believe
15 the people are here today. So running over a 1x8 on
16 the freeway at 65 miles an hour is a pretty
17 frightening thing to me but if I flew directly over
18 the plume, I don't know what that impact would be and
19 we don't know what that impact would be. So there
20 should be some mitigation here if that NOTAM is an
21 issue, somehow the Energy Commission should follow up
22 and make sure it gets issued because that is the only
23 mitigation for flying over that plume.

24 And then the last issue I have is that this
25 project used 2000 census data and while the PMPD

1 states that it's a possibility that it's a minority
2 population, you don't know where that minority
3 population is located in relation to the impacts of
4 this power plant. And that's something that's
5 required in an environmental justice analysis and it
6 wasn't done. I was also quite disturbed that the
7 project materials were not given to the minority
8 members of the public in languages that they knew and
9 understood even though they requested it. They also
10 requested interpreters at the hearings and did not
11 receive interpreters. I think all those things are
12 requirements of environmental justice and I think that
13 the Commission's got a way to go on their
14 environmental justice analysis and how they treat
15 these particular instances. That's all my comments.
16 Thank you.

17 CHAIRMAN WEISENMILLER: Thank you. James
18 Lamb?

19 MR. LAMB: Hello, Commissioners. I
20 particularly want to thank Mrs. Douglas for her
21 patience and her familiar face at all of the hearings.
22 She's did a lot of work on this. And Mr. Sarvey in
23 particular because he was very helpful for us to help
24 understand the process and help out with the other
25 interveners.

1 I'm speaking with you as a member of the
2 public, not as an intervener today. I'm an elected
3 official in Mountain House. I'm on the Board of
4 Directors for the Mountain House Community Services
5 District. I was appointed by our Board to be the
6 point person on the Mariposa project. I've attended
7 most, if not all, of the hearings that I've been aware
8 of. I went to the site inspections that you folks
9 went to so I'm very aware of what's gone forward.

10 I can say from my own perspective, I have
11 not talked to one person in Mountain House that was an
12 advocate for this project. Mr. Celli said that there
13 were some who were proponents for it, I never saw that
14 testimony or heard those comments. As far as I can
15 tell, we're 100 percent against this project. There
16 is a small community of Mountain House and other
17 Mountain House right next door in Alameda County and
18 they did have some commentary that was in support of
19 it but that's because they received some mitigation
20 funds for their school. So just for the record, I
21 want to be clear that as far as I know there's no
22 comments from Mountain House California in that
23 regard. Our Board is still opposed to the project,
24 mainly because the residents are still opposed to the
25 project. I think that's all that I had to say on

1 that. Thank you very much for your time.

2 CHAIRMAN WEISENMILLER: Thank you. Andy
3 Wilson?

4 MR. WILSON: Hello Mr. Chairman,
5 Commissioners, staff and general public. My name is
6 Andy Wilson. California Pilot's Association, or also
7 known as CalPilots. This certainly doesn't reflect my
8 age, or maybe it does, but CalPilots was incorporated
9 in 1949 and is the non-profit, 501(3)(c).

10 What our role is that we have members
11 throughout the state. We have a Board throughout the
12 state. We have former FAA people. We also have
13 professional commercial pilots and private pilots and
14 non-pilots. Our role is that you typically don't see
15 the FAA show up at hearings and you don't typically
16 see CalTrans Aeronautics show up so what we do is we
17 intervene or we show a presence with other pilots of
18 those projects. In this case, CalPilots, as an
19 intervener, does oppose this project and we certainly
20 would hope that you would vote no.

21 A couple of points and issues. There was
22 mention of a test over flight done by aerospace and or
23 test pilots. That was submitted kind of at the last
24 minute and if I read it correctly, it has not had a
25 peer review. It's strictly their opinion, no one's

1 reviewed it. It was never submitted to the FAA for
2 their review so the FAA's never reviewed it. However
3 the staff takes it as fact. Mr. Sarvey brought up one
4 point and was the flight—did the flight encompass all
5 of the stacks, was the power plant operating at its
6 maximum, did they in fact fly over the center of the
7 stack and also there was wind that day. Wind
8 decreases the velocity and the impact of the plume
9 itself.

10 I'm also concerned, or CalPilots is
11 concerned, in the PMPD on page 19, Item Number 15.
12 The FAA has issued determinations of no hazard to air
13 navigation for the MEP structures and for the
14 potential of thermal plumes from MEP's stack to impact
15 aviation including ultra light and gliders. That's
16 really not true. The 7460, if you notice there's no
17 reference here so unless you have a letter from the
18 FAA administrator that says this is safe from the FAA
19 we need to now go, who is it, why—who said it's not a
20 hazard and that's not quoted here. So the 7460 that's
21 required to be filed is a form by the FAA that's
22 strictly, in this case, is looking at the physical
23 height of the stack not the plume. The plume is
24 addressed in the aeronautical information manual. And
25 it specifically calls it a hazard.

1 So those are a couple of the points that
2 CalPilots has that were not on the right track here
3 and everybody's accepting this.

4 Now when the aviation issues began to come
5 up around airports this started out with Blythe and
6 the Blythe Airport and the Blythe Power Plant and
7 since then, in 2006 there as referenced in the
8 documents and during the evidentiary hearing, both the
9 applicant, staff and CalPilots has made to the FAA
10 risk analysis study. Part of that study was to create
11 a page within the AIM, Aeronautical Information
12 Manual, and it has been done. It's also my
13 understanding that the FAA is also working on a more
14 detailed report but I believe that the applicant has
15 tried to get that information, CalPilots has tried to
16 get that information and I believe other people in the
17 aviation community have tried to get that information
18 and it has not been released yet.

19 With that and also with Bob Sarvey's comment
20 on the NOTAM, Notice to Airman, that it would be on
21 the charts that says do not overfly the power plant.
22 If you have in the PMPD no hazard, doesn't mean
23 anything and now we have a comment that it could be
24 the impact of driving over a 2x4 or a 2x6 and as Bob
25 Sarvey said it, a 2x8. I think what you're decision

1 is going to do, which could be good, if you approve
2 this power plant and with the implementation of the
3 NOTAM you're going to reduce usable airspace by
4 aircraft, in other words no flyover up to 1,500 feet
5 or 1,500 feet or below. So if you're sitting in a
6 commercial airplane, as power plants and other
7 structure reduce airspace and the weathers fine but
8 you hear there's a flight delay, it could potentially
9 be trying to fit all the aircraft in the computer
10 system and accommodate them and delays will happen.
11 It's not only this Commission, it's cities and
12 counties are doing the same thing.

13 So the FAA, to my understanding, is becoming
14 very concerned about these NOTAMs on charts that are
15 required on the reduction of airspace, not only about
16 the plumes but other structures as well such as
17 buildings. So what I think you're going to see coming
18 down the road here in the next few months or year or
19 so, there's already been an update on the part 77
20 which mentions wind generators which never had been
21 before, it does not mention plumes. I think in the
22 future you will see plums mentioned.

23 So again with that, CalPilots would request
24 that you deny this project. Thank you very much. If
25 you have any questions, I would be willing to answer

1 any.

2 CHAIRMAN WEISENMILLER: Thank you. Ed
3 Mainland?

4 MR. GROOVER: Excuse me. My name is Ed
5 Groover. I'm actually an intervener with Mountain
6 House Community. Mr. Lamb spoke and he actually told
7 you that he was speaking as a member of the public. I
8 am actually the intervener for Mountain House. I have
9 just a couple of quick comments if I may.

10 CHAIRMAN WEISENMILLER: Sure.

11 MR. GROOVER: As background, I'm a
12 registered professional engineer in the state of
13 California. I'm the Community Services District
14 Director for Mountain House. I did my first CEQA
15 process in California in 1984 so I'm a qualified
16 expert on the CEQA process in the state of California.

17 In this process I submitted a brief that I
18 want to go back to at this point in time. If I can
19 ask Mr. Celli to move to his first slide. Yes,
20 please. If you look at this slide, there are three
21 axis points into San Joaquin County from Alameda
22 County. There's Highway 205, right above that there's
23 Grantline Road and above that there's Byron Highway.
24 CalTrans operates 205. The entrance points at
25 Grantline Road and Mountain House Roads, those are my

1 two roads.

2 Mountain House Community is a political

3 subdivision of the state of California. We are

4 empowered by LAFCo proceedings as required by the

5 state of California. We have never, and to my

6 knowledge, there's not a record that we've never been

7 notified per public resources code. We've never been

8 considered as a responsible agency in this process.

9 We've actually gone to the Commission with our Board

10 of Directors to pass a resolution and sent this to the

11 CEC. We've actually applied to be an intervener and

12 we've still never actually been treated as a

13 responsible agency. In my brief that I supplied to

14 the Board or to the Commission, I'm sorry, I pointed

15 that out. I actually provided the LAFCo proceedings

16 that made us a political subdivision. And I actually

17 pointed this out, and that's one of the reasons that I

18 had this come up, I actually pointed out that your

19 staff notified San Joaquin County and the response

20 that you got back from them as a responsible agency

21 was that if you anything to our roads you have to

22 mitigate it. Well, if you look at this map, other

23 than CalTrans, you don't get to San Joaquin County

24 roads until you go over my roads. In the response

25 from the applicant to my brief, they said two things.

1 They said that they're not a responsible agency. If
2 you're traveling over my LAFCo powered roads before
3 you get to the San Joaquin County roads and all San
4 Joaquin County is given the privilege of being a
5 responsible agency, you can't argue that I'm not. I
6 am the responsible agency that is directly contiguous
7 to the land or to the jurisdiction that this is on.
8 Public resource codes require you to treat me as a
9 responsible agency and there's nothing in the record
10 that says you've done that. We've come forward and
11 provided information but at no time has this agency
12 responded to us per CEQA requirements. Now there's
13 been quite a bit of discussion in this what staff has
14 and has not done. I'm not discussing that now. All
15 I'm discussing is the public resources code. If
16 you're looking at the LORs of what this project is
17 supposed to do, I'm not at this point in time arguing
18 whether this project is good, bad or anything in
19 between but staff has not followed CEQA process. We
20 have volunteered to be here. I've volunteered to be
21 here but CEQA public resource code doesn't mitigate
22 your responsibility as a lead agency by my
23 volunteering to be here. If you look at when the
24 staff assessment came out, we went to workshops and
25 made comments that you haven't contacted us, you

1 haven't looked at us in any of your expert testimony,
2 staff assured us that they would be in there. The
3 revised staff assessment has not addressed our
4 comments. CEQA process requires you to do that. We
5 went to the hearings that were here and we made the
6 same comments that we're saying now. PMPD is silent on
7 us. We have been totally not addressed. Now there's
8 been some things that residents from our community
9 said and I understand when you have overriding
10 consideration from those, that's fine. I'm not going
11 to argue those points. The point is you have not
12 followed the CEQA process with a responsible agency as
13 you're required to do in the public resource code and
14 that's all I have to say.

15 CHAIRMAN WEISENMILLER: Thank you. Mr.
16 Mainland? With the Sierra Club.

17 MR. MAINLAND: Mr. Chairman, Commissioners,
18 Sierra Club is grateful to be able to address the
19 Commission directly at this time as you are about to
20 make a decision that we think you should know effects
21 the--may affect the public credibility of the
22 Commission. Maybe a few words about the policy
23 context in which this decision is going forward would
24 not be amiss.

25 The fact is that PG&E is being allowed to

1 grossly overproduce fossil fuel resources. The public
2 perception is that the state agencies involved stand
3 aside and tolerate what is likely to become more
4 unjustified burdens on ratepayers and in the longer
5 term will create more obstacles building clean
6 renewable power sorely needed to meet state targets
7 for carbon emissions reduction.

8 Now some of us monitored or were present at
9 a very good CEC workshop Monday which had to do with
10 the Governor's proposal for 12 gigawatts for renewable
11 distributed generation. Our concern is with this
12 project and projects like it are far from advancing
13 the cause of distributed renewable generation. Money
14 going into this sort of technology and into fossil
15 fuels will in fact impede the Governor's goals.

16 Now the dimensions of the state's glut of
17 fossil fuels electric generation are really striking.
18 In PG&E's service area for example, not only MEP but
19 Russell City, Marsh Landing and Oakley are all
20 completely unnecessary. Although you're legal
21 blinders are such that SB-10 is invoked that was then
22 and now is now. That one had to do with merchant
23 providers and now it's the ratepayers that are going
24 to be on the hook for surplus power and surplus fossil
25 fuel generation. And they will realize this and they

1 will make this an issue with the Commission. Based on
2 Sierra Club's calculations the fixed cost associated
3 with these four plants I mentioned will be in the
4 neighborhood of \$600 million per year, even if no
5 power from them is used and this \$600 million per year
6 would build over 300 megawatts per year of commercial
7 rooftop solar at 2010 PV prices. This would be a
8 sizable contribution to the Governor's PV goals.

9 The issue is that the investment going into
10 natural gas and going into fossil fuels at this time
11 should be going into renewables.

12 Now our other problem with the project and
13 the staff's assessment of it is that the alternatives
14 section was quite disappointing and defective. I
15 won't go through the comments that we have made on
16 that point. I would say that to retain credibility,
17 for the CEC to retain credibility, the alternative
18 section has to be a true assessment of alternatives
19 and has to be honest and complete. Some of the
20 deficiencies involve dismissal of alternative
21 technologies, energy efficiency grossly dismissed,
22 pump storage alternative resources are not considered
23 viable options for dispatchable energy in this PG&E
24 area.

25 The CEC staff fails the document in how the

1 MEP might replace older, less efficient generations,
2 claims that MEP is a public facility that meets the
3 public need, which is not a valid assertion. In our
4 view, the pollution volume will overwhelm the county's
5 efforts to reduce carbon emissions.

6 Finally, the claim that this project will
7 somehow integrate renewable power disregards the
8 availability of other ways to do that.

9 If I may, just leave you with one thought.
10 It's unfortunate that the ratepayers are going to be
11 responsible for something that's going to hamper
12 California's ability to justify new investments in
13 cleaner types of power, including DG, distributed
14 generation, of all types. Thank you.

15 CHAIRMAN WEISENMILLER: Thank you. Mr.
16 Rajesh Dighe.

17 MR. DIGHE: Good afternoon, everyone. I
18 live in Mountain House. First, I'd like to thank the
19 public and Jennifer Jennings who has been helping me a
20 lot. This is the first time that I've been an
21 intervener so thanks. Thanks to the Senior Intervener
22 specifically Robert Sarvey. He's been guiding me
23 throughout the process.

24 So I'll directly, without wasting any time,
25 come to specific comments I have on the PMPD as well

1 as the errata that was published recently. One thing
2 that was very clearly noted there quote unquote that I
3 did not actually specifically say how I justified the
4 state is going against AB 32. I think I've talked
5 enough about that in my testimony, in my briefings but
6 I'd like to clarify that point and want to bring it
7 out once again.

8 If you look at the whole gamut of things of
9 what's happening, we are trying to justify this
10 natural gas power plant for renewable source and
11 seeing that it's actually going to assist AB 32. It's
12 an interesting argument because as a part of the whole
13 system, the people of California too are a part of the
14 whole system and they are also standing up for the
15 cost. You cannot neglect the people also. If you
16 look at the whole bigger goals of renewable energy,
17 putting solar panels which again come back to that
18 technologies, so I thin enough has been said about how
19 the requirement itself poses other alternatives not to
20 be discussed I think is an interesting argument
21 because right during the hearings also it was kept—we
22 would kept on saying that this is the requirement and
23 then again it goes back to the (indiscernible) are not
24 allowed to be discussed.

25 To be very frank, I would have loved to see

1 during the hearings as well as during the workshops
2 more technologically savvy people being talked to so
3 that we can do this costing. I think Sierra Club
4 mentioned it. Bob Sarvey has mentioned it. You're
5 looking at renewable energy but now you're saying a
6 bigger power plant but we did not do that. How much
7 cost would it be in (inaudible) time? People are
8 talking 10 years back. It's okay that we're not there
9 yet but when the CPUC actually approved—or gave this
10 argument of power generation, it's been probably two
11 or three years back. A lot of stuff has been changed
12 after that. I think that it cannot be overlooked.
13 That's my point.

14 I've clearly identified that the land use,
15 I'm not going to go around that area because it's like
16 opening a Pandora's Box. So if you guys—if anyone has
17 the slightest doubt in their mind that there is a
18 chance of having a peaker power plant in an
19 alternative technology that's of an advanced fashion,
20 I think this is the time to deny this project for the
21 good of California. You can create an example for
22 other states. I think we are very close to
23 implementing a high generation for the high needs of
24 Californians and can demonstrate that we have a
25 solution. I think that this is the moment to think

1 before saying Aye to this project.

2 Second thing I really want to emphasize

3 which is socioeconomic which is what I stood for. I'm

4 still standing for that. As Mr. Celli mentioned,

5 Mountain House is being the epicenter of foreclosure.

6 I already mentioned in my briefs and in my

7 testimonies. Mountain House has gotten nothing. You

8 have the city people here, they'll tell you. Why

9 didn't people come to Mountain House. They saw the

10 windmills. They saw this environment. If you take

11 this away from Mountain House, they've got nothing.

12 There's no businesses. They came over here to live

13 with the mindset and I want to mention that if you

14 were here, it's real. People want to help AB 32.

15 They want to purchase solar panels. And now three

16 counties out there, Alameda County pushing this out.

17 No alternative power getting discussed. This is

18 really interesting. People of California are going to

19 think twice, thrice. Should I put up a solar panel?

20 And that analysis of how many solar panels are

21 required in San Joaquin County. Sierra Club, Mr.

22 Mainland also said it is a viable alternative. This

23 is the chance to make an example of the Commissioners.

24 This is the greatest chance. I'm sure Arnold

25 Schwarzenegger, President Obama that the current

1 governor (indiscernible). I think we're already on
2 the path of innovation so if you deny this power plant
3 it's going to create an example for sure.

4 Before I forget, the point around limited
5 infrastructure. If you see on the record, on this
6 large parcel agricultural land, an electrical facility
7 is not permissible. They kept on debating around laws
8 but if you clearly see it. If you are logical and
9 analytical, you'll see it. The laws are there to
10 support CEQA as a guideline. But if you look at CEQA,
11 doesn't it tell you that you can overlook something
12 and then assist in breaking the law. It doesn't.
13 It's just a guideline. That's my point. It is close
14 to a high density population. If you look at it, I'm
15 not a liar. Mr. Sarvey probably knows a lot about
16 laws but I did look and I think it is one important
17 point that I did mention in the briefings as well as
18 during my comments to the PMPD that this open space
19 land, which Alameda County is trying to use, is of no
20 density. But look at it, it's at the bottom of three
21 counties. My Mountain House community is high
22 density. The population is going to be 45-50,000 so
23 you cannot say that this is a low density area. I
24 guess it is possible that they're trying to make it
25 comfortable without looking at alternative solutions.

1 Going back to the 4,000 hours of maximum
2 operations. If you look at it, my Mountain House
3 community has not been (inaudible). My community has
4 got three elementary schools really doing good. A lot
5 of people. None of the schools is getting any money
6 from this. But we are going to see the punishment.
7 The Mountain House school that's mentioned in the PMPD
8 is not in my community. My community doesn't have a
9 school in Mountain House community. It has Bethany
10 Elementary, Wheatland Elementary and (indiscernible)
11 and probably 10 more schools coming down the line. We
12 haven't got any mitigation that is guaranteed as a
13 condition as a part of this project. How do I know
14 that any money is going to come to us. But we are
15 going to face the pollution because we are the closest
16 high density population to the power plant. So for
17 the record, and I had already said, we are a
18 (inaudible) area. The applicant has clearly said that
19 the power plant potentially cannot operate during
20 winter seasons. It's a high possibility that we will
21 have a high impact.

22 Not to forget anyone with a justice case.
23 AB 32, I looked at it and browsed some of the—I'm a
24 technology person so AB 32 allows—there are specific
25 requirements and there is an item that says an

1 environmental justice committee. I'm not really sure
2 that you have really done all of the work because my
3 community is a minority community and we have to help
4 conserve the community and we want to review
5 alternatives. This 200 megawatt probably can be
6 radial used (indiscernible) the amount of power
7 generated through these solar panels over the rooftops
8 is increasing.

9 Again, this is a big burden to my community
10 and I think that there are viable alternatives for
11 bigger power generation. And I think we need to
12 review it, all of our leaders want us to review it.
13 This is the time to rethink if you have the slightest
14 doubt in your mind, rethink because this is going to
15 be a symbol. I think we are close to developing a
16 bigger power plant in a much more environmentally way.

17 Going to my last comment, going to pipeline
18 002. I did mention that we were not actually allowed,
19 because PG&E did not come and testify, and for the
20 record we were told that there was any sufficient
21 evidence that it will bring more information. I
22 always wonder if the risk analysis and the risk
23 analysts explain the way that it's presented is
24 supported by industry experts. It's an interesting
25 argument that risk analysis experts were there and

1 saying it's okay. But apparently they had no
2 knowledge of this specific line 002 because they did
3 not see the (inaudible) of testing. They didn't see
4 anything which is talking about the current
5 conditions. How do you justify everything is ok. And
6 I did mention that in my briefings as well.

7 CHAIRMAN WEISENMILLER: Okay. Thanks. We
8 read your briefs. So if you wanted to summarize?

9 MR. DIGHE: I would summarize that I really
10 want to make sure that you guys think twice and
11 discourage and deny this power plant.

12 CHAIRMAN WEISENMILLER: Okay. Thank you for
13 your contribution. Guy Colton?

14 MR. CELLI: I just wanted to point out that
15 there are other interveners--

16 CHAIRMAN WEISENMILLER: I'm just working off
17 of the blue card so--

18 MR. COLTON: I'll be brief.

19 MR. CELLI: No problem. I just wanted to
20 say that Mr. Colton is a member of the public. The
21 interveners that we haven't heard back from yet are
22 Mr. Singh and Robert Simpson. And his attorney is
23 here so I just wanted to present that to you so that
24 you were aware.

25 CHAIRMAN WEISENMILLER: Okay. Sure. The

1 interveners can go first.

2 MR. CELLI: Sorry about that. I just wanted
3 to make sure that we got all of the interveners.

4 MS. SOMMER: Good afternoon, Chairman and
5 Commissioners. April Rose Sommer. Counsel for
6 intervener Rob Simpson. Mr. Simpson concurs in the
7 other intervener's objections to the presiding
8 member's proposed decision. There are three specific
9 issues which I will address in the context of the
10 errata.

11 First, pipeline safety. Should the
12 Commission approve the PMPD with the suggested errata,
13 the Commission will have ignored its own directive
14 that all sites include review of pipeline safety and
15 reliability. Additionally, it would be imprudent of
16 the Commission to approve the PMPD without ruling on
17 Mr. Simpson's motion of consideration, the Committee's
18 March 28, 2011 decision to not subpoena PG&E for the
19 purposes of obtaining evidence of the safety and
20 reliability of lines 002, a natural gas pipeline that
21 will supply Mariposa Energy Project.

22 The Commission has failed to address the
23 issues raised in Mr. Simpson's motion for
24 consideration. Yet, the errata adds conclusions about
25 these very issues. This is page six of the errata,

1 Item 19. It reads: Rob Simpson filed comments
2 essentially claiming that the record contained
3 insufficient analysis of a natural gas pipeline
4 because no expert from PG&E testified. As stated
5 above, expert testimony has established that the
6 impact of MPE's natural gas cycling is negligible.
7 The decision is based on substantial evidence and
8 there was no showing that the addition of a witness
9 from PG&E would have been anything other than
10 needlessly cumulative.

11 On April 8, 2011, Mr. Simpson filed a motion
12 for reconsideration. The Commission has taken no
13 action on this motion in violation of California Code
14 of Regulation Title 20, Section 1720. The Commission
15 shall hold a hearing for the presentation of arguments
16 on the petition for reconsideration and shall act to
17 grant or deny the petition within 30 days of its
18 filing. Thirty days have passed. During the March 7,
19 2011 evidentiary hearing, Mr. Simpson moved the
20 committee to exercise its right to subpoena PG&E for
21 the purposes of soliciting evidence on line 002. The
22 Committee declined to address the motion during the
23 hearing. At the March 9, 2011 Commission business
24 meeting, the Chairman directed staff to include a
25 consideration of pipeline safety and reliability

1 issues in their review of current and future site
2 cases. Yet, just a few weeks later the Committee
3 denied Mr. Simpson's motion.

4 As you yourself, Chairman, have confirmed,
5 MEP and line 002 safety and reliability and effect on
6 the environment and compliance with applicable laws
7 are interdependent. The Committee has been remiss in
8 its duties in refusing to conduct a full analysis of
9 line 002 and its relationship with MEP.

10 In the April 12, 2011 Oakley PMPD that was
11 just approved, Vice Chair Boyd expanded on the need
12 for review of pipelines. He wrote: However, in light
13 of recent publicly noted events pertaining to the PG&E
14 gas transmission line rupture and fire in San Bruno,
15 California on September 9, 2010, the Energy Commission
16 determined on March 9, 2011 that pending and future
17 AFC proceeding must include an enhanced assessment of
18 natural gas pipeline supply and availability and
19 safety that specifically addresses any known or
20 anticipated risk or project interconnection with
21 existing natural gas pipelines. The OGS AFC Committee
22 subsequently directed the parties in this proceeding
23 to address seven questions pertaining to PG&E lines
24 303 and 400 and the project's interconnection to these
25 lines.

1 The Committee's decision to deny Mr.
2 Simpson's motion to subpoena PG&E based on conclusion—
3 is based on conclusions in contradiction to the
4 Chairman and Vice Chairman's conclusion regarding the
5 need to assess the safety and reliability of pipeline
6 citing cases. The Committee's decision reads: As an
7 initial matter, we confirm that our licensing and
8 jurisdiction over related facilities such as view
9 lines extends up to the first point of
10 interconnection. And that our findings and
11 conclusions with respect to the safety and reliability
12 of the MEP include the site and related facilities up
13 to that point. It is undisputed that line 002, which
14 is the subject of Mr. Simpson's motion, is beyond that
15 point. The Committee also improperly placed the
16 responsibility of providing evidence of pipeline
17 safety and reliability on interveners instead of on
18 applicant and staff, writing: We note from the outset
19 that neither Mr. Simpson nor Mr. Singh called any
20 witnesses to testify about the safety of line 002.
21 Instead, Mr. Simpson's sole argument in support of his
22 motion for a subpoena seemed to be that the witnesses
23 called by other parties lacked expertise to testify to
24 the safety of line 002 and the impact of construction
25 and operation of the MEP upon that line.

1 Chairman and Vice Chair are to be commended
2 for expressing the needs to include pipeline and
3 reliability safety in citing cases but without any
4 evidence on specific pipelines from the entity that
5 built, owns, operates and maintains said pipeline this
6 is an exercise in futility. PG&E is needed to testify
7 to the specific conditions of line 002 and the
8 Commission has a duty to gather this information as
9 part of the citing process, certainly before approving
10 the PMPD.

11 Finally, as explained in Mr. Simpson's
12 motion for consideration and amended declaration,
13 Commissioner Karen Douglas engaged in prohibited ex
14 parte communication with PG&E during the evidentiary
15 hearing in violation of Government Code, Section
16 11430.10 and California Code of Regulations Title 20,
17 Section 1216. Commissioner Douglas should have been
18 removed from the proceedings and is improper to have
19 her continue to make a determinations on this issue.

20 Next issue I will address quickly is the
21 Williamson Act. The errata at page 19, Item 48 adds
22 the following: Government Code, Section 5120E
23 provides the compatible uses are defined in either
24 local rules or by the Williamson Act itself. In this
25 case, the Williamson Act expressly recognizes electric

1 facilities as a compatible use and the evidentiary
2 record establishes that Alameda County has never made
3 a finding to the contrary. As explained in Mr.
4 Simpson's first comments on the PMPD, compatible uses
5 by land covered by the Williamson Act contract are
6 defined by the terms of the contract. If the contract
7 allows generally for compatible uses, then the
8 Williamson Act definition of compatible uses may
9 apply. The Williamson Act contract at issue does not
10 allow generally for compatible uses. The applicable
11 Williamson Act contract defines in clear and
12 unambiguous language that allowable uses for its
13 subject land. This does not include electric
14 facilities and so the PMPD conclusion that LORs have
15 been applied is in error.

16 The final issue which is something that I
17 raised at the Committee hearing which was not included
18 in the errata is, and I will direct you to pages 9, 26
19 and 27 which basically offer staff opinion as fact.
20 So I'll address just one of these. In this table you
21 can see that on page nine discusses compliance with
22 the Clean Water Act. And this lists the project as
23 being in compliance yet says in the discussion that no
24 permit has been granted and it's misleading to say
25 that it's—that the project is in compliance when that

1 is a decision that has not yet been made. Similarly,
2 on 27, there's language that's been added that
3 addresses compliance with the Endangered Species Act
4 and the Endangered Species Act has not been in
5 compliance and its staff opinion that it could be
6 compliance is misleading to include in the PMPD.

7 So Mr. Simpson objects to the PMPD and the
8 errata for these reasons and again for all of the
9 reasons that have been raised so eloquently by the
10 other interveners and requests that the Commission
11 does not approve the PMPD today.

12 CHAIRMAN WEISENMILLER: Okay. Thank you.
13 Any other interveners who want to speak?

14 MR. CELLI: I believe that's all of them,
15 Chairman.

16 CHAIRMAN WEISENMILLER: Okay. Mr. Colton?

17 MR. CELLI: Is Mr. Singh on the telephone?
18 I don't believe any one is on the telephone.

19 MR. COLTON: You either have to look at my
20 hat head or my hat, so I'll give respect to the flag
21 and take the flag off.

22 My name is Guy Colton. I live at 1559 Kelso
23 Road. Can you go back one picture before, Mr. Celli?
24 There it is. I merely just wanted to point out that
25 our property is adjacent to the proposed power plant.

1 When you look at the map, the little map that they
2 sent out, you'll see one little green spot on it.
3 It's a little three acre property and that's where we
4 live.

5 I went to the last meeting. I was kind of
6 behind the curveball on it. I received this the week
7 before the meeting and I read through it and I read
8 through it and thought I better attend. Prior to
9 attending it, I contacted Mr. Mainland with Sierra
10 Club because I recognized intervener being someone who
11 intervenes and my concern was the amount of pollution
12 and noise and nuisance that can be caused by the
13 construction. Well, I didn't get a response until
14 about two-and-a-half hours before the meeting and he
15 sent me a document and I read a couple of paragraphs
16 which kind of gave the blanket objection of the Sierra
17 Club. Subsequent to that, I attended the meeting and
18 after the meeting I was contacted by several people.
19 Ms. Sommers, Mrs. Egrecki and I wanted some information
20 because I hadn't really gotten any information out of
21 the meeting. I've been flooded with information since
22 then and I've been trying to read through it and get
23 through it. I've got just a couple of purposes here
24 today.

25 First of all, when I started asking for

1 information I quickly got in touch with Mr. Curry, the
2 project manager, and he responded to us wonderfully.
3 We got a lot of information from him, one of the first
4 things I get is he came out and had a meeting with us
5 and I made him drive Bruhns Road. I don't know how
6 long it had been since you had driven Bruhns Road
7 prior to that but it was in a lot worse condition than
8 when you had driven it previously. In about six or
9 eight weeks, the Green Volts Energy Project that's
10 taking place a couple hundred yards down Kelso Road
11 had literally destroyed the road. I mean literally
12 destroyed the road. In that slalom to get around the
13 rubble and they have patches all the way through it.
14 He told me that they have a contract after the
15 pipeline is put in to return the road and maintain the
16 road. That belayed my concern. I had other concerns
17 about noise. He gave me this very dense document and
18 I've looked through it. There's a huge wind study
19 that had been done and it says that the closest sense
20 receptors include a few isolated residences, the
21 closest of which is approximately 3,300 feet to the
22 northwest from the center of the turbines and the
23 second resident is approximately 3,600 feet to the
24 northeast. That's us. They go on to discuss the very
25 deep wind studies that they did and when I read

1 through the list of the various dBA levels I found
2 that the mitigation level at our property is 45
3 decibels. Their wind and sound study suggest that the
4 noise level suggest that the noise level at our
5 property is going to be 43 decibels. And so I read
6 through this and it says noise source at a given
7 distance and I read 40 decibels which is right there
8 at 43, 45. At 40 decibels they say that sound there
9 is going to be bird calls distance—the sound of a
10 distant bird call. I actually believed them so I'll
11 wait and see. I've talked to the neighbors. Is there
12 anybody here that lives on Bruhns, or Kelso or
13 Mountain House Road? We've discussed it. We are the
14 nearest neighbors. We are going to be the ones
15 impacted. Those roads—Can I ask a quick question of
16 Mr. Curry? Did you tell me that the traffic pattern
17 is going to be down runs in a short distance? Can you
18 move forward one picture? The little hook there is
19 going to be the entrance road and it's going to go out
20 to Kelso.

21 MR. CURRY: That's actually Bruhns Road
22 right there. There will be some traffic on Kelso Road
23 but it's going to be coming from the west to the east
24 and won't be traversing in front of your property.

25 MR. COLTON: That's what I understood.

1 Again, everybody that had questions or problems here,
2 I've been looking at this for less than nine days and
3 I've had all of my questions and concerns answered.
4 Mr. Curry came out and had a meeting with the property
5 owner, me and my sister and two other adults that live
6 on the property. We are directly downwind and we can
7 hear the neighbors talk next door, downwind 100 years
8 away. I still have—I'm going to believe you. I'm
9 going to accept this. The first thing that he did when
10 he got out of his car, I said stop and listen. And
11 all you can hear is the wind blowing through the trees
12 and the birds. We live a wonderful, beautiful
13 existence out there and this project is going to be—
14 well the Green Volts two megawatt plant is creating a
15 nightmare. I'm guessing 200 megawatts is twice that
16 but I'm going to accept your statement that it's not
17 going to be 200 times worse.

18 Now the last thing that I would like to say
19 here is that hypocrisy is a terrible thing. I've
20 always been in favor of natural gas resources, it's a
21 clean, plentiful, even more plentiful as we're getting
22 better at getting it out of the ground. We have to
23 stop relying on foreign oil and other sources. We need
24 home grown energy sources. There's a lot of wind out
25 there. There's a solar plant going up. All of these

1 things are being done and I'm happy to think that
2 we're building for the future, not necessarily current
3 need now. I've heard a lot of talk about this being
4 surplus or unneeded or unnecessary but I would add a
5 verb to that. It will become needed. It will become
6 necessary and I speak as the closest neighbor
7 downwind. My head rests, see the northern most stack?
8 My head rests closest to that than anybody and I say
9 go for it. Thank you.

10 CHAIRMAN WEISENMILLER: Thank you. Okay.
11 Applicants? Actually, Ken Celli? Do you have any
12 comments? We've covered a lot of ground. Is there
13 anything that you'd like to respond to?

14 MR. CELLI: You know, thanks Chairman. With
15 your permission, I'd like to have the applicant to
16 speak to it and if he doesn't speak on any of the
17 points that I want to speak on then I want to speak.

18 COMMISSIONER DOUGLAS: There's one thing
19 that we should speak to before we go back to the
20 applicant and that is the allegation of the ex parte
21 communications at the hearing that had in Sacramento
22 on the natural gas pipeline issue. We had been trying
23 to get PG&E to testify and we had thought for a time
24 that PG&E was going to testify but then got the
25 message that they would not. We saw Mr. Galati late

1 at night hovering toward the door and hearing officer
2 went out to see if he was going to come in and testify
3 and or if anybody else from PG&E was going to come in
4 and testify and so in this, I went out as well to get
5 Mr. Galati in the room. We are permitted to make
6 process related communications, a communication about
7 whether they are going to testify if a process related
8 communication. In that, which we reported on the
9 record, Mr. Celli, because the issue was would we
10 subpoena PG&E if they didn't come forward with their
11 witnesses, ask the question how would you respond to a
12 subpoena. Again, it's a process related question.
13 It's not about the truth of the matter.

14 MR. CELLI: Right. I have the same
15 statement that we received earlier and if I may--

16 COMMISSIONER DOUGLAS: But this is on the
17 transcript so Mr. Celli reported out that PG&E would
18 resist the subpoena and then Mr. Galati had came in
19 the room and said all of this on the record so this is
20 in the transcript.

21 MR. CELLI: That's correct. And
22 specifically, it's on the transcript at 3:7:11,
23 transcript page 403-10 through 404-20, pursuant to
24 Government Code Section 1143020, Communications are
25 permissible as matters of procedure or practice and

1 the question was would PG&E provide a witness or would
2 they resist a subpoena really.

3 CHAIRMAN WEISENMILLER: Okay. Thank you.
4 Mr. Wheatland?

5 MR. WHEATLAND: Well, I was going to say
6 that all of the points that have been raised have been
7 addressed very well already in the briefs that you
8 have reviewed and in the PMPDs so I don't feel
9 compelled to provide a point-by-point response. I
10 certainly would be happy to address any questions that
11 you would have. There are just two things that I
12 wanted to touch on very briefly.

13 I wanted to agree with Ms. Sommer with
14 respect to one issue. She had pointed out that
15 portions of the PMPD that where the staff had
16 (inaudible) that the project would be in compliance
17 with the Federal Endangered Species Act. That opinion
18 is perspective but yesterday the biological opinion
19 was issued with respect to this project, finding that
20 the project is in compliance with the Federal
21 Endangered Species Act so now that has been satisfied.
22 And I also wanted to address, very briefly, the
23 concerns that Mr. Groover raised. That he said that
24 Mountain House Services District was never contacted
25 with respect to this proceeding. For the benefit of

1 the Commissioners who were not here at the beginning
2 of this process, at the very first informational
3 hearing and site visit, the Mountain House Community
4 Services District was in fact notified of this
5 proceeding and did attend the very first informational
6 hearing. And they engaged in a dialogue with
7 Commissioner Levin at that time that's part of the
8 record of the pre-hearing transcript. The transcript
9 of that hearing with Commissioner Levin where she did
10 invite them to participate. She welcomed their
11 participation. She urged them to contact the
12 Commission staff and she invited them to file a
13 petition for the right to intervene, which they did.
14 They have participated fully in almost all of this
15 proceeding from the first informational hearing as
16 interveners. So the rights and the notices and the
17 opportunities to participate that they have had as
18 interveners have been greater than those that would be
19 enjoyed as a responsible agency. I don't believe they
20 are a responsible agency because they don't, under
21 CEQA, that's defined as an agency that would issue a
22 discretionary permit. But whether they're a
23 responsible agency or not, the fact is that the
24 Commission afforded them a full opportunity to
25 participate. It was their choice not to issue data

1 requests. It was their choice not to introduce
2 testimony. But it's not for lack of the Commission
3 trying. They gave them every opportunity. I'd be
4 happy to answer other questions on any points you'd
5 like me to address.

6 CHAIRMAN WEISENMILLER: Staff, do you have
7 any—

8 MS. WILLIS: Just a few additions to what
9 Mr. Wheatland just said. We did address the Mountain
10 House Community Services District's comment that they
11 were not included in the process in our reply brief.
12 Because that was the first time that we had ever heard
13 that comment. The fact was that they were included in
14 the initial agency list. They were granted intervener
15 status in December of 2009. The staff sent the letter
16 requesting agency comments on the staff assessment to
17 them on November 10, 2010. As Mr. Wheatland said, Mr.
18 Groover and or Mr. Lamb attended every meeting,
19 workshop, all of the pre-hearing conferences, the
20 evidentiary hearings. They did send one comment on
21 the staff assessment and it was a letter that included
22 an attachment from the Tracy Fire South County Fire
23 Authority confirming Alameda County has a mutual aid
24 agreement with Tracey Rural Fire Protection Agreement.
25 And that the Mountain House Community Service District

1 would (inaudible) the impact, if any, for the delivery
2 of emergency response to MEP. Although they never
3 asked staff to respond to that comment, it was just
4 basically a comment, during a subsequent workshop Mr.
5 Sarvey brought a representative from Tracy Rural Fire
6 to address any potential impacts to the fire safety
7 services and the applicant and Tracy Rural worked out
8 a condition of certification that included a payment
9 of \$70,000 to the Tracy Rural Fire. Finally, in Mr.
10 Groover's pre-hearing conference, he indicated that
11 there were no topic areas that remained in dispute and
12 required adjudication so we were very confused by the
13 comment that was in their opening brief and the
14 comment today but we have—I think that staff did an
15 excellent job in reaching out to the Mountain House
16 Community and all of the agencies that you can tell
17 they were three different counties and many agencies
18 involved.

19 CHAIRMAN WEISENMILLER: Thank you. Mr.
20 Celli?

21 MR. CELLI: Depending on the needs of the
22 Commission, as I look at my list of points made by
23 each of the commenters today - the alternatives issue,
24 the fact that gas only was used. These were all
25 addressed in the PMPD or the errata and I can give you

1 as much detail on any particular item that you want.
2 I would say that the photo that was talked about by
3 Mr. Sarvey, which is in evidence, the context of it—
4 there was no verbal evidence or description of what
5 its use or what its context was so that is extra
6 record there.

7 With regard to the Williamson act, there is
8 findings of no limitations on power plants. We've
9 heard from the Alameda County themselves. The same
10 with Measure D. With regard to the NOTAM, that issue
11 was addressed both in the errata and in the PMPD.
12 It's a requirement—it's not a requirement but it's a
13 request by the FAA that there be an application for
14 the NOTAM and that's the requirement of the addition.
15 The issue has to do with what the FAA does with the
16 application is outside the jurisdiction of the Energy
17 Commission. The testimony was that the pilots did fly
18 through the plumes, not astride them 500 feet. They
19 actually flew through the plumes. As to the census
20 data concern, the guidelines require the most recent
21 census data to be relied upon in an EJ analysis.
22 Unfortunately in this case, since this case came up in
23 2009, the most recent census was 2000. Before the
24 inception of the Mountain House Community which came
25 into being at 2003. However, the Committee I think,

1 astutely determined that in light of the evidence that
2 we had, rather than just relay on the census they
3 would find that this was an EJ community for the
4 purposes of the analysis just because it was that
5 close of a call.

6 I just want to make these points. We did
7 receive comments from Mountain House Community
8 residents who said we do not agree with these Mountain
9 House people who are opposing the project. As to the
10 finding number 15 raised by Mr. Wilson, the finding-I
11 just want you to know-the finding is a summation of
12 the analysis that comes before the section. And the
13 analysis is on page 15, explaining how the FAA made
14 the no hazard determinations.

15 CHAIRMAN WEISENMILLER: Actually, Mr. Celli.
16 Let me ask a couple of questions to try to focus it.
17 The first thing I wanted to do just in terms of the
18 photo, I was going to ask the Executive Director to
19 pass this along to Paul Canon who's the Executive
20 Director of the PUC and help Mr. Sarvey if necessary
21 and contact him and explain this information so that
22 it can be considered in the PUC gas proceedings.

23 MS. JONES: Yes, I will do that. I will
24 contact Mr. Canon and get some additional information
25 from Mr. Sarvey.

1 CHAIRMAN WEISENMILLER: And certainly the
2 ratepayer concerns of the PUC. I think in terms of
3 the next question I wanted to ask of Mr. Celli or Mr.
4 Levy is the question of the environmental justice
5 analysis. The allegations that the case is deficient
6 in any rate.

7 MR. CELLI: Yes, the guidelines require that
8 the—and I believe that staff has some witnesses here
9 but we took plenty of testimony that said the NEPA
10 guidelines say that if you are to engage in an
11 environmental justice analysis the only credible
12 source of information with regard to the number of
13 actual populations and racial makeup of those
14 populations is the census. So the census was relied
15 upon. The staff and applicant relied on the letter of
16 the law and fulfilled the letter of the law by relying
17 on the census from the 2000 census. As we said
18 though, Mountain House as a community sold its first
19 house in 2003. It is now a community of some 9-10,000
20 people. SO it's the largest community in the area.
21 The evidence that we received from Jas Singh, who is
22 one of the interveners, was a summary map that showed
23 the racial makeup by zip code. This zip code included
24 a much larger area than Mountain House. It included
25 parts of Tracy. But we used it because it showed there

1 was something like a 54 percent non white population
2 in that area. So the Committee determined that this
3 is old information, this is a community that didn't
4 exist in 2000 so we will rely on this information
5 because in the end the question is is it or is it not
6 an environmental justice community. So the Committee
7 found that it was.

8 CHAIRMAN WEISENMILLER: Mr. Levy, anything
9 you want to add to that?

10 MR. LEVY: Sure, just to supplement. If
11 it's environmental justice community what you're
12 looking at is whether or not there's an high-end
13 adverse impact, aka a significant adverse impact that
14 disproportionally affects the EJ community. In terms
15 of the evidence, what was proven out, I'd have to
16 differ to the Committee and the hearing officer about
17 what was worn out in the proceeding. That's what the
18 avenues are. We're subject to state and federal
19 policies on environmental justice and we do that
20 largely through our CEQA process. And in the end the
21 determination was that there were no impacts on any
22 community.

23 COMMISSIONER PETERMAN: One follow up on the
24 EJ. There was also a comment raised about lack of
25 interpreters or information in different languages.

1 Can you comment on that?

2 MR. CELLI: Thank you. Yes, Commissioner
3 Peterman. We received evidence that the Mountain
4 House Community had an overwhelming majority of
5 English speaking people. And that we received
6 demographic information to show that English was
7 spoken in like 80 percent of the houses of Mountain
8 House. That the income level—the average income—the
9 mean income was \$100,000 in the area. So these are
10 highly educated people in the Mountain House area. We
11 had a huge response. The outreach was quite
12 successful, I would say. We had a lot of interest
13 throughout. But just to answer your question, there
14 was a late request for things to be translated into
15 other languages and at that time the Committee made a
16 determination that it just wasn't economically
17 feasible. It was too late in the process. It was in
18 the middle of our evidentiary hearings.

19 COMMISSIONER DOUGLAS: I'll just add that
20 there was a request at a hearing and it essentially
21 would have required stopping the hearing, reconvening
22 another day with not one but multiple interpreters
23 speaking in multiple languages. There was also a
24 request to translate all documents into multiple,
25 mostly Asian languages, but many, many of them. The

1 Commission tries to be able to accommodate these
2 requests. I was—I have been in one other hearing
3 where we've had Spanish translation. It's never out
4 of the question but nor is it required. This was a
5 late request that was huge in scope. To translate
6 every document in the record into multiple languages
7 would take a very, very long time and be quite
8 expensive. We decided that it would not be necessary.
9 It's always good to be able to accommodate these
10 requests but given the timing and the nature of the
11 request, it wasn't really feasible.

12 CHAIRMAN WEISENMILLER: Thank you. I guess
13 the other was I'd ask Ken to address was the motion
14 for reconsideration.

15 MR. LEVY: Yes. There was a motion for
16 reconsideration that was a rather confused motion
17 because it was brought to the Commission for a
18 reconsideration of a Committee decision. The
19 Committee's decision was not to subpoena PG&E. Let me
20 step back and give you a little more background. The
21 motion was brought at about 7:30 at night on the third
22 and last day of our evidentiary hearings for a
23 representative from PG&E to come and testify. Mr.
24 Galati, who represents PG&E, came. We asked and he
25 stated that he would resist those efforts and so at

1 that time the motion was denied, I believed, on the
2 7th of March which was the date of our last hearing. A
3 subsequent motion for reconsideration went to the
4 Commission to reconsider the Committee's decision and
5 that was sent up to Chief Counsel's office, pursuant
6 to our procedures, and the determination I believe was
7 that it was going to be denied by the expiration of
8 time.

9 CHAIRMAN WEISENMILLER: The last point that
10 I was going to raise was one of the issues the Sierra
11 Club raised was the greenhouse gas issue and renewable
12 integration. I would note that I've testified on
13 these sorts of issues a hundred times before the PUC
14 or this Commission or FERC. Certainly been deemed an
15 expert witness on those. I was one of the authors of
16 the Energy Commission's study on Greenhouse Gas
17 Analysis and looked at the issues of renewable
18 integration and was appointed by the Bankruptcy Court
19 in New York as an expert in power issues. So
20 certainly, I'm convinced that this type of unit is
21 going to be—first, I'm very, very, very committed to
22 the development of renewables in this state and
23 determined to meet or exceed the Governor's goals.
24 Having said that, I understand the role of this type
25 of asset to really deal with renewable integration. I

1 would note that I was at the Cal ISO a couple of weeks
2 ago and they had pointed to the maximum—we've reached
3 the maximum amount of wind in California at 2,400
4 megawatts in one day. But in that day, within an
5 hour, the wind generation dropped by 800 megawatts and
6 in another hour, it went up 800 megawatts. So there's
7 a lot of vitality to wind. We've had a number of
8 workshops the IEPR certainly encourages people to go
9 into that but again I'm pretty comfortable based upon
10 my professional judgment that we need this unit.

11 Other Commissioners have questions or
12 comments?

13 COMMISSIONER PETERMAN: I was only going to
14 make the comment that Chair Weisenmiller made more
15 eloquently and with more expert background of the
16 value of natural gas asset in terms of thinking about
17 renewable integration. That we are continuing to look
18 at what level of support is needed for renewables and
19 just to clarify that we are thinking about other
20 technologies but that this is an important one to
21 think about in that context.

22 COMMISSIONER DOUGLAS: Thank you
23 Commissioners. I wanted to make a couple of closing
24 comments and address a couple of issues that were
25 raised. First of all, as you can see this was a

1 controversial power plant proposal and there were a
2 lot of parties and a lot of arguments and the
3 Committee spent many, many hours in hearings going
4 through the issues that were litigated. The Committee
5 did look at the pipeline safety issue. We looked not
6 only if the interconnection would be safe but also
7 whether the power plant itself would have any negative
8 impact on the pipeline 002 so we looked at
9 interconnection and whether cycling of the power plant
10 would affect safety of the line. What we did not do,
11 and what the interveners wished us to do, was hold
12 hearings on the safety of the line itself. We decided
13 it was outside of the scope of the analysis that we
14 were going to do to look at the line itself but we
15 would look at the power plant, the interconnection and
16 whether the fact of a power plant being proposed would
17 cause a danger being its interconnection to the line.
18 We did look at the line in the sense that we have
19 evidence that the gas line is one of the newer lines.
20 That is was built after federal regulations over
21 pipeline safety were very significantly strengthened
22 so we did do that, get that level of evidence before
23 we scoped our hearings. I would have preferred if
24 PG&E been able to, been willing to testify. We'll
25 have to talk to PG&E more but we believe that we had

1 enough evidence on the pipeline safety issue. Let's
2 see what else. You've heard a lot of argument and
3 responses to that are laid out in the PMPD so if you
4 don't have questions, I won't go through specific
5 issues that were raised.

6 CHAIRMAN WEISENMILLER: Okay. I think I'm
7 okay on that. I would note that obviously as the one
8 who raised the pipeline issue, we have—PUC is doing a
9 very thorough investigation. We've looked at a piece
10 of the puzzle. Certainly, I will call everyone's
11 attention to the expert panel's report which is coming
12 out in the first week of June. There is a record
13 being developed. We wanted to make sure that we
14 addressed these issues but at the same time, have a
15 very strong desire not to duplicate the record at the
16 PUC.

17 COMMISSIONER DOUGLAS: Thank you, Chairman
18 Weisenmiller. I'll just make a few more brief
19 comments. There were a lot of members of the public,
20 in addition to the interveners, there were a lot of
21 members of the public who testified or who made
22 comment in our proceeding. A lot of people raised the
23 ratepayer concern, the question of whether this plant
24 was needed, the question of if they might be paying
25 for a plant that didn't actually run very much. Those

1 questions we deferred to the PUC on. The PUC is
2 dealing with this issue and the ratepayer effects are
3 squarely in their jurisdiction. The question about AB
4 32 and the fact that there was this community there
5 standing up, person after person saying we'll put a
6 solar panel on every roof in Mountain House instead of
7 having this project was something that caused me to
8 have a good deal of sympathy for this community. At
9 least we have over a 100 people show up over multiple
10 nights saying that they did not want the project. And
11 there were people who live in a community where they
12 have to drive 10 miles to go to the grocery store,
13 they've got to drive hours to get to work. So it's a
14 commuter community. It's hard probably for anyone to
15 carve time out of their life and come to a public
16 hearing but for this community I think it was
17 particularly hard so I think for everyone that made
18 it, there were many more who did not make it who
19 probably shared those sentiments. And I think that I
20 had additional sympathy just for their frustration
21 that as we look at mitigation—Yes, thank you
22 applicant. They did provide additional mitigation to
23 the San Joaquin Air District to address air issues but
24 if you look at the school impact, that by statute goes
25 to the county in which the project's located so the

1 school impact fee goes to Alameda County so when the
2 people of Mountain House sort of stand up and say
3 maybe you've convinced me that maybe the power plant
4 isn't going to kill me because the evidence showed
5 that somebody could basically live on the site from
6 birth to 70 years and not have a significant health
7 impact. But you haven't convinced me that it's not
8 going to make it harder for me to sell my house and
9 I'm underwater and we're trying to build this
10 community. We heard literally hours of those concerns
11 and layered on top of that AB 32. I'm convinced that
12 this is not going to harm the health of the people in
13 Mountain House. The additional mitigation that's
14 going to take place in the San Joaquin Air District is
15 certainly going to help. Part of me wishes that
16 something could have been done for Mountain House
17 schools but it's not under our CEQA review. There
18 were no significant impacts. There was an EJ
19 community but there were not impacts and if there are
20 no impacts then there are no impacts on the community.
21 It's not something that we could require.

22 On AB 32, I think that we need to do a
23 better job of communicating to people about how we
24 think the system needs to look for us to meet our 2050
25 greenhouse gas goals because every time something's

1 proposed that people don't like, they talk about solar
2 panels. Instead of this transmission line, we'll do
3 solar panels. Instead of this power plant, we'll do
4 solar panels. Instead of renewable energy in the
5 desert, why don't we do more solar panels.

6 I'm quite serious about that last point. I
7 spent yesterday dealing with and working with desert
8 stakeholders, local governments, environmental groups
9 and others and you talk about how much energy
10 development you might need in the desert to meet our
11 AB 32 goals and they look like deer in the headlights.
12 We have to sprint on solar panels but it's not an
13 alternative to everything. Somehow we have to meet
14 our AB 32 goals and make the system work. I share
15 Commissioner Weisenmiller's belief that peaking power
16 plants are part of that solution. I also don't
17 believe that we have too many of them given the
18 renewable scenarios that we could be looking at which
19 could be significantly above 50 percent and maybe even
20 closer to 100 percent to meet our 2050 climate goals.
21 I recommend this plant to the Commission for approval
22 and I will move Item 16.

23 MR. CELLI: And the errata—

24 COMMISSIONER DOUGLAS: And the errata.

25 MR. CELLI: Dated May 17.

1 COMMISSIONER DOUGLAS: Move Item 16 and the
2 errata dated May 17.

3 COMMISSIONER PETERMAN: I'll second the
4 motion.

5 CHAIRMAN WEISENMILLER: All in favor?

6 (Ayes.) This passed unanimously. Thank
7 you.

8 MR. CURRY: If I could just take one brief
9 minute on behalf of our entire team. Thank you for
10 the decision today and also wanted to thank staff for
11 their hard work and professionalism on this. We're
12 going to be good neighbors in that community and we're
13 going to be good stewards of that local community and
14 good stewards of the environment. Thank you.

15 CHAIRMAN WEISENMILLER: Thanks. Okay. Next
16 item on the agenda is Chief Counsel, Commission
17 Committee Presentation and Discussions.

18 COMMISSIONER DOUGLAS: I should report out
19 that yesterday I went to the first of a two-day
20 stakeholder meeting for the Desert Renewable Energy
21 Conservation Plant. I went with Deputy Director
22 Sylvia Bender and we presented a very, very simple and
23 simplified calculator that can help people understand
24 what level of renewable energy we might need in the
25 desert to meet our AB 32 climate goals. I think the

1 discussion was—we were very careful to say that this
2 shouldn't be used to project, this shouldn't be used
3 to forecast. This is literally just we're trying to
4 help people understand how to—how we might—various
5 ways we might meet our AB 32 goals of an 80 percent
6 reduction of greenhouse gases in the electricity
7 sector by 2050 and keep the lights on. The discussion
8 was helpful. I think we're going to be moving forward
9 to talk more concretely about development areas and
10 conservation strategy which we discussed but we need
11 to work on in more detail to make the DRECP work but I
12 was particularly pleased that the Bureau of Land
13 Management announced that it would be working—that it
14 would be bringing much closer together its land use
15 amendments in the DRECP so that they would be ideally
16 one joint environmental review document and that will
17 speed up considerably the effective date of the DRECP.

18 CHAIRMAN WEISENMILLER: Great. Chief
19 Counsel's report?

20 MR. LEVY: Thank you. I have no report this
21 afternoon.

22 CHAIRMAN WEISENMILLER: Executive Director's
23 report?

24 MS. JONES: I have no report today, thank
25 you.

1 CHAIRMAN WEISENMILLER: Public advisor's
2 report?

3 MS. JENNINGS: I have no report, thank you.

4 CHAIRMAN WEISENMILLER: Public comment?

5 This meeting is adjourned.

6 (Whereupon, at 2:09 p.m., the business meeting was
7 adjourned.)

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